

CHAPTER 6: WHAT ARE THE REQUIREMENTS FOR OFFSET CREDITS AND HOW ARE THEY ISSUED?

(Guidance for Regulation Sections 95970–95990)

6.1. What Are Offsets and How Are They Used?

An *offset* is a credit that represents a reduction or removal of greenhouse gases by an activity that can be measured, quantified, and verified. Individual offset projects can be implemented to generate offset credits, which can then be sold and used by a covered entity as a compliance instrument in the Cap-and-Trade Regulation.

Under the Cap-and-Trade Program, covered entities may use a limited number of offset credits to satisfy a portion of their compliance obligation. Specifically, covered entities may use offset credits for up to 8 percent of their total compliance obligation for each compliance period. Offsets are tradable credits that represent verified GHG emission reductions in sectors and sources not covered under the cap. Although the offset project is not itself covered under the cap, it can generate reductions for use by entities who must comply with the Regulation. The inclusion of offsets in the program will support the development of innovative projects and technologies from sources not subject to a compliance obligation.

As required by AB 32, any reduction of GHG emissions used for compliance purposes must be real, permanent, quantifiable, verifiable, enforceable, and additional (Health and Safety Code Section 38562(d)(1) and (2)). Offsets issued by ARB must be quantified according to Board-adopted methodologies. The Cap-and-Trade Regulation (Regulation) includes requirements for collecting and submitting the appropriate monitoring documentation to support the verification and enforcement of reductions incentivized through the generation and retirement of ARB offset credits. The regulatory criteria for compliance offsets will ensure that the reductions are quantified accurately and are not double-counted within the system.

6.1.1. What Are ARB's Roles in Administering the Offset Program?

ARB's primary roles in the offset program are to develop and adopt Compliance Offset Protocols and perform all required California Environmental Quality Act (CEQA) analyses associated with the adoption of new Compliance Offset Protocols; oversee and review Offset Project Registry activities, ARB-accredited offset verification bodies and offset verifiers, and Offset Project Operators; and issue ARB offset credits. ARB oversight of the conduct of Offset Project Registries and ARB-accredited verifiers is critical to the program's overall integrity. ARB does not delegate any of its legal authority to review or enforce the offset program to any entity, including approved Offset Project Registries.

Apart from program review and oversight, ARB also serves administrative roles, reviews documents, implements appeals processes, and ultimately issues ARB offset credits.

The Regulation also includes provisions for allowing existing voluntary offset registries that meet ARB standards to be approved as Offset Project Registries. Approved Offset Project Registries will perform a large part of the administrative functions in the offset creation process. The functions that Offset Project Registries will implement include: listing offset projects, general project guidance, reporting, support for verification activities, and issuance of registry offset credits. These services are collectively referred to as *registry services*.

Although the Regulation refers to both ARB and Offset Project Registries for performing registry services, for the time being, most registry services will be performed by the Offset Project Registries, unless the Regulation includes specific roles within each process that only ARB will perform, such as administering the appeal processes. Language in the Regulation, however, allows ARB to determine whether it will operate other administrative functions in the future.

6.1.2. *What Types of Offset Credits Are in the Regulation?*

This subsection describes the types of offset credits included in the Cap-and-Trade Regulation.

Key Definitions

“ARB Offset Credit” means a tradable compliance instrument issued by ARB that represents a GHG reduction or GHG removal enhancement of one metric ton of CO₂e (MTCO₂e). The GHG reduction or GHG removal enhancement must be real, additional, quantifiable, permanent, verifiable, and enforceable.

“Early Action Offset Credit” means a tradable credit issued by an Early Action Offset Program that represents a GHG reduction or GHG removal enhancement equivalent to one MTCO₂e and meets the requirements of section 95990(c).

“Offset Project Registry” means an ARB-approved entity that meets the requirements of section 95986 and lists offset projects, collects Offset Project Data Reports, facilitates verification of Offset Project Data Reports, and issues registry offset credits for offset projects being implemented using a Compliance Offset Protocol.

“Registry Offset Credit” means a credit issued by an Offset Project Registry for a GHG reduction or GHG removal enhancement of one MTCO₂e. The GHG reduction or GHG removal enhancement must be real, additional, quantifiable, permanent, verifiable, and enforceable and may only be issued for offset projects using Compliance Offset Protocols. Pursuant to section 95981.1, ARB may determine that a registry offset credit may be removed and issued as an ARB offset credit.

The Cap-and-Trade Regulation includes provisions for three types of offset credits: ARB offset credits, registry offset credits, and early action offset credits. ARB offset credits are issued by ARB and are the only type of offset credit that may be used to meet a

compliance obligation and may be tracked and traded in ARB's tracking system. Registry offset credits and early action offset credits may be transitioned to ARB offset credits if they meet the applicable regulatory criteria. ARB offset credits will only be issued once the original registry offset credits and/or early action offset credits are retired by the Offset Project Registry or Early Action Offset Program. Once early action offset credits are issued ARB offset credits, they may be used for compliance. A more detailed description of the three offset credit types follows:

ARB Offset Credits

ARB offset credits are issued by ARB for GHG reductions or removal enhancements achieved by an offset project under a Compliance Offset Protocol. ARB offset credits may be used for compliance and are subject to the 8 percent limit provisions in section 95854 of the Cap-and-Trade Regulation. ARB offset credits may be traded and retired in the Compliance Instrument Tracking System Service (CITSS).

Registry Offset Credits

Registry offset credits are issued by Offset Project Registries for GHG reductions or removal enhancements achieved by an offset project using a Compliance Offset Protocol that lists with an Offset Project Registry. After an Offset Project Registry determines that the GHG reductions or removal enhancements meet the criteria for issuance, the Offset Project Registry will issue registry offset credits to the offset project. Registry offset credits may be traded on the Offset Project Registry system but may not be registered and traded in CITSS. In order to be created in CITSS and used for compliance under the Cap-and-Trade Program, the registry offset credits must be converted into ARB offset credits, if they meet the applicable regulatory criteria. This conversion process is described later in this chapter.

Early Action Offset Credits

Early action offset credits are issued by Early Action Offset Programs and must meet the requirements in section 95990 of the Cap-and-Trade Regulation. Early action offset credits may be traded on the Early Action Offset Program registry system but may not be registered and traded in CITSS. Early action offset credits must successfully transition to ARB offset credits to be created in CITSS and used for cap-and-trade compliance.

6.2. What Criteria Do Offsets Need to Meet?

This section describes the criteria that offsets must meet to be used for compliance in the Cap-and-Trade Program. AB 32 requires that offsets used for compliance must be real, additional, quantifiable, verifiable, permanent, and enforceable. ARB will ensure that these criteria are met through the design of the Regulation, the use of standardized, Board-approved Compliance Offset Protocols, the use of ARB-accredited third party verification bodies and verifiers, and through the approval and oversight of Offset Project Registries. Each Compliance Offset Protocol adopted under the Cap-and-Trade Regulation uses conservative methods to account for uncertainty and emissions leakage and establishes the additionality of offset projects by setting standardized project baselines. More information on Compliance Offset Protocols is provided in Section 6.3 of this guidance document.

Key Definitions

“Additional” means, in the context of offset credits, GHG emission reductions or removals that exceed any GHG reduction or removals otherwise required by law, regulation, or legally binding mandate, and that exceed any GHG reductions or removals that would otherwise occur in a conservative business-as-usual scenario.

“Enforceable” means the authority for ARB to hold a particular party liable and to take appropriate action if any of the provisions of this article are violated.

“Permanent” means, in the context of offset credits, either that GHG reductions and GHG removal enhancements are not reversible, or that when GHG reductions and GHG removal enhancements may be reversible, mechanisms are in place to replace any reversed GHG emission reductions and GHG removal enhancements to ensure that all credited reductions endure for at least 100 years.

“Quantifiable” means, in the context of offset projects, the ability to accurately measure and calculate GHG reductions or GHG removal enhancements relative to a project baseline in a reliable and replicable manner for all GHG emission sources, GHG sinks, or GHG reservoirs included within the offset project boundary, while accounting for uncertainty and activity-shifting leakage and market-shifting leakage.

“Real” means, in the context of offset projects, that GHG reductions or GHG enhancements result from a demonstrable action or set of actions, and are quantified using appropriate, accurate, and conservative methodologies that account for all GHG emissions sources, GHG sinks, and GHG reservoirs within the offset project boundary and account for uncertainty and the potential for activity-shifting leakage and market-shifting leakage.

“Verifiable” means that an Offset Project Data Report assertion is well documented and transparent, such that it lends itself to an objective review by an accredited verification body.

Section 95970 lays out the general criteria that offsets must meet to be used in the Cap-and-Trade Program. Specifically, offsets must:

- Represent a GHG emission reduction or GHG removal enhancement that is real, additional, quantifiable, permanent, verifiable, and enforceable;
- Be achieved using a Compliance Offset Protocol;
- Be achieved by an offset project that meets the requirements in section 95973;
- Be achieved by an offset project that is listed according to section 95975;
- Be achieved by an offset project that meets the criteria for monitoring and reporting per section 95976;
- Be achieved by an offset project that is verified according to sections 95977 through 95978; and
- Be issued by ARB according to section 95981.1.

The Regulation contains provisions that ensure the environmental integrity of issued ARB offset credits and ensures ARB's ability to conduct oversight and enforcement of all parties involved in the generation of ARB offset credits. These provisions include requirements for third-party verification, penalty provisions, and ARB audits. In addition to ARB audits, Offset Project Registries are required to conduct supplemental oversight of their registry program and to randomly audit verifications to ensure that ARB's regulatory requirements are being met by Offset Project Operators and offset verification bodies. ARB will, in turn, provide rigorous oversight of all approved Offset Project Registries. More information regarding Offset Project Registry requirements can be found in Section 6.13 of this document.

The regulatory offset verification program provides a transparent process, through the release of public information, by which ARB can review verification documents and fully understand any findings uncovered during the course of verification of an offset project by an ARB-accredited verification body. ARB maintains audit and oversight authority of the verification bodies as well.

6.3. What Are the Requirements for Compliance Offset Protocols?

This section describes the requirements that Compliance Offset Protocols (COPs) must meet to be approved by the Board. COPs are standardized methodologies which include quantification methods to measure and quantify GHG reductions or removal enhancements, monitoring and reporting requirements, and supplemental verification requirements specific for each project type.

Key Definitions

“Activity-Shifting Leakage” means increased GHG emissions or decreased GHG removals that result from the displacement of activities or resources from inside the offset project’s boundary to locations outside the offset project’s boundary as a result of the offset project activity.

“Business-as-Usual Scenario” means the set of conditions reasonably expected to occur within the offset project boundary in the absence of the financial incentives provided by offset credits, taking into account all current laws and regulations, as well as current economic and technological trends.

“Compliance Offset Protocol” means an offset protocol adopted by the Board.

“Conservative” means, in the context of offsets, utilizing project baseline assumptions, emission factors, and methodologies that are more likely than not to understate net GHG reductions or GHG removal enhancements for an offset project to address uncertainties affecting the calculation or measurement of GHG reductions or GHG removal enhancements.

“Greenhouse Gas Emission Reduction” or *“GHG Emission Reduction”* or *“Greenhouse Gas Reduction”* or *“GHG Reduction”* means a calculated decrease in GHG emissions relative to a project baseline over a specified period of time.

“Greenhouse Gas Removal Enhancement” or *“GHG Removal Enhancement”* means a calculated increase in GHG removals relative to a project baseline.

“Market-Shifting Leakage,” in the context of an offset project, means increased GHG emissions or decreased GHG removals outside an offset project’s boundary due to the effects of an offset project on an established market for goods or service.

“Permanent” means, in the context of offset credits, either that GHG reductions and GHG removal enhancements are not reversible, or when GHG reductions and GHG removal enhancements may be reversible, that mechanisms are in place to replace any reversed GHG emission reductions and GHG removal enhancements to ensure that all credited reductions endure for at least 100 years.

“Project Baseline” means, in the context of a specific offset project, a conservative

estimate of business-as-usual GHG emission reductions or GHG removal enhancements for the offset project's GHG emission sources, GHG sinks, or GHG reservoirs within the offset project boundary.

Section 95971 of the Cap-and-Trade Regulation establishes that Compliance Offset Protocols must be approved by the Board after public notice and the opportunity for public comment. Any updates or modifications to existing COPs must also be approved by the Board. Staff will review and periodically revise COPs as needed. For example, if new scientific information is developed to support changes to emission factors used to help quantify the amount of emission reductions achieved by the project, staff could propose changes to the COP.

For the Board to approve a COP it must meet the following criteria, which are found in section 95972 of the Regulation:

- Robust Quantification: The COP must accurately determine the amount of GHG reductions or sequestration for the offset project type using the best available science.
- Data Collection and Monitoring: The COP must include the relevant data collection and monitoring procedures for the offset project type.
- Project Baselines: The COP must establish a project baseline for the relevant offset project type(s) that reflects a conservative estimate of business-as-usual performance or practices.
- Account for Leakage: The COP must account for activity-shifting and market-shifting leakage when quantifying the reductions or sequestration for the offset project type.
- Account for Uncertainty: The COP must conservatively account for uncertainty in setting the quantification methods and emission factors used for the offset project type.
- Account for and Ensure Permanence: The COP must ensure that GHG reductions or removal enhancements are permanent, and if there is a risk of impermanence, they must include a mechanism to ensure permanence. See Example 6.3.1.

Example 6.3.1

A Compliance Offset Protocol may use a buffer pool or other type of insurance mechanism to ensure permanence. The Cap-and-Trade Regulation includes provisions for a Forest Buffer Account (section 95983), which can be used to compensate for sequestered carbon that may be released due to unintentional reversals. The Forest Buffer Account is described in more detail in Section 6.11 of this guidance document.

- Establish Crediting Period: The COP must establish the length of the crediting period for the offset project type. Offset Project Operators and Authorized Project Designees should look to Section 3 of each applicable COP to determine the crediting period length for the offset project type. For any new Compliance Offset Protocols adopted by ARB the crediting period length will be worked out through a public stakeholder process during protocol development and described in the Compliance Offset Protocol.

In section 95972(b) of the Cap-and-Trade Regulation, there are minimum and maximum requirements for crediting period lengths. For non-sequestration projects, such as ODS and livestock digesters, the crediting period must be between 7 and 10 years, but there may be circumstances where an alternative time frame may be approved for these types of projects. For sequestration projects, such as forestry and urban forestry, the crediting period must be between 10 and 30 years.

Crediting Period Renewal Requirements – Section 95975(k) describes the requirements for renewed crediting periods. If an offset project meets the requirements for additionality, the crediting period may be renewed. Non-sequestration offset projects may renew the crediting period twice for the length of time identified in the applicable COP. Sequestration offset projects are not subject to renewal limits.

- Standard Methods and Quantification: The COP must use standard criteria for determining the eligibility and additionality of offset projects of that type. In addition, the COP must quantify the GHG reductions or removal enhancements achieved by the offset project using standardized baseline assumptions, emission factors, and monitoring methods.
- Geographic Applicability: Each COP must establish where offset projects using the protocol can be located. Some COPs may have a limited geographic scope due to lack of available data for establishing accurate emission factors or quantifying GHG reductions or removal enhancements in a particular geographic area. Section 95973(a)(3) of the Cap-and-Trade Regulation establishes that offset projects must be located in the United States and its Territories, Canada, or Mexico. Although this criterion is established in the Regulation, individual COPs may specify a more limited geographic area within that range. For example, the protocol for Compliance Offset Protocol Livestock Projects, October 20, 2011, is only applicable in the United States.

6.4. What Requirements Do Offset Projects Need to Meet?

An offset project is defined as “all equipment, materials, items, or actions that are directly related to or have an impact upon GHG reductions, project emissions, or GHG removal enhancements within the offset project boundary.” The general criteria that offset projects need to meet to generate ARB offset credits are in section 95973 of the Cap-and-Trade Regulation. These criteria include: meeting the requirements in the applicable COP, the requirements for additionality, offset project location, and the requirements for environmental impact assessments.

Key Definitions

“Offset Project” means all equipment, materials, items, or actions that are directly related to or have an impact upon GHG reductions, project emissions, or GHG removal enhancements within the offset project boundary.

“Offset Project Commencement” means, unless otherwise specified in a Compliance Offset Protocol, the date of the beginning of construction, work, or installation for an offset project involving physical construction; other work at an offset project site; or installation of equipment or materials. For an offset project that involves the implementation of a management activity, “offset project commencement” means, unless otherwise specified in a Compliance Offset Protocol, the date on which such activity is first implemented.

More specifically offset projects must meet the following requirements:

- Requirements of COPs: Offset Project Operators (OPOs) and Authorized Project Designees (APDs) must ensure that any offset project they bring into the compliance offset program meets the requirements in the relevant COP for that offset project type.¹ The COPs that are approved as of the date of this guidance document are listed below.

Compliance Offset Protocol Livestock Projects, October 20, 2011

Compliance Offset Protocol Ozone Depleting Substances, October 20, 2011

Compliance Offset Protocol Urban Forest Projects, October 20, 2011

Compliance Offset Protocol U.S. Forest Projects, October 20, 2011

¹ Beginning January 1, 2014, all new offset projects must be developed and listed under COPs (see section 95990(c)(3) of the Cap-and-Trade Regulation for timing requirements) if the operator is seeking issuance of ARB offset credits that may be used for compliance. Some offset projects may qualify as early action offset projects. Early action offset projects are initially developed under the protocols that are approved in section 95990(c)(5) of the Cap-and-Trade Regulation. Section 95990(k) establishes the rules for early action offset projects that transition to COPs. Once an early action offset project transitions to a COP it must meet the requirements of section 95973 for compliance offset projects.

- Requirements for Additionality: Before implementing an offset project, the OPO or APD must ensure the project will meet the standardized additionality criteria in the applicable Compliance Offset Protocol. In calculating the baseline, the OPO or APD must ensure the baseline accounts for any regulations, ordinances, and legally binding mandates that apply at the project level.

Offset Project Commencement – The Regulation requires that offset projects start after December 31, 2006, unless otherwise specified in the applicable COP. For example, a COP may specify a later Offset Project Commencement cut-off date. OPOs should look at the requirements in Section 3 of the applicable COP for rules regarding Offset Project Commencement for the offset project type. However, due to the reporting requirements, ARB can only issue ARB offset credits for verified GHG reductions or sequestration for a maximum of 24 months prior to the current date. Reporting requirements are discussed in more detail in Section 6.8.2 of this guidance document.

NOTE: There is one exception in the Regulation for allowing an Offset Project Commencement date before December 31, 2006. If the project came into the compliance offset program as an early action offset project and later transitions to a COP, that offset project may have an Offset Project Commencement date before December 31, 2006 (see section 95973(c) of the Regulation).

Project Baseline – To qualify under the additionality rules, the GHG reductions and removal enhancements achieved by the offset project must exceed the project baseline that is calculated in the applicable COP for the offset project type.

Example 6.4.1

If the installation of livestock digesters were to become legally required in California beginning January 1, 2015, ARB would not allow any new offset projects in the United States to list under the Compliance Offset Protocol after that date. Those offset projects that began generating GHG reductions under the Compliance Offset Protocol prior to January 1, 2015, would still be eligible to be issued ARB offset credits for the remainder of the crediting period. The crediting period begins with the date for which the first GHG reductions occurred, and the length of the crediting period is determined in the applicable Compliance Offset Protocol. These offset projects would not be eligible to renew the crediting period once it has expired because they would be non-additional at the time they apply for a renewal.

- Offset Project Location: The offset project is only eligible to generate potential ARB offset credits if it is implemented in the region specified in the COP.
- Environmental Impact Assessment Requirements: The Regulation requires that offset projects meet all the requirements for local, regional, and national environmental impact assessments, based on where the offset project is located.

For example, offset projects located in California must meet any applicable requirements under the California Environmental Quality Act (CEQA). All offset projects located in the United States must meet any applicable requirements under the National Environmental Policy Act (NEPA). Offset Project Operators (OPOs) should check with any local or regional agencies to ensure that the offset project meets the applicable local environmental impact assessment requirements.

Additional Requirements for Offset Projects Related to Tribes

Offset projects on tribal lands must enter into a limited waiver of sovereign immunity with ARB in order to generate compliance offsets under the Cap-and-Trade Regulation. If an offset project is located on one or more of the following categories of land, it must demonstrate that a limited waiver of sovereign immunity exists between ARB and the governing body of the Tribe:

- Land that is owned by, or subject to, an ownership or possessory interest of the Tribe
- Land that is “Indian Land” of the Tribe, as defined by 25 U.S.C. §81(a)(1)
- Land that is owned by any person, entity, or tribe, within the external borders of such Indian Lands

More information on the limited waiver of sovereign immunity can be found in Section 6.7.5 of this guidance document related to listing of offset projects related to Tribes.

6.5. What Is the Offset Credit Creation Process?

This section gives an overview of the offset credit creation process. The offset credit issuance process is described in more detail in Section 6.10 of this document. The main elements of the offset credit creation process and the associated sections of the Regulation are:

- Registration (section 95830);
- Listing of the offset project (section 95975);
- Monitoring and reporting of GHG reductions or removal enhancements (section 95976);
- Verification (sections 95977 through 95979);
- Offset Project Registry determination and issuance of registry offset credits (sections 95980 through 95980.1); and
- ARB determination and issuance of ARB offset credits and registration of ARB offset credits (sections 95981 through 95982).

Key Definitions

“Offset Project Data Report” means the report prepared by an Offset Project Operator or Authorized Project Designee each year that provides the information and documentation required by this article or a Compliance Offset Protocol.

“Offset Verification Statement” means the final statement rendered by a verification body attesting whether an Offset Project Operator’s or Authorized Project Designee’s Offset Project Data Report is free of an offset material misstatement, and whether the Offset Project Data Report conforms to the requirements of this article and applicable Compliance Offset Protocol.

Once an Offset Project Registry has issued a registry offset credit, ARB will review all the information that was submitted to the Offset Project Registry and ARB. It is the responsibility of each OPO to make sure all required offset project information is submitted to ARB if the OPO is seeking issuance of ARB offset credits. If ARB determines that the GHG reductions and GHG removal enhancements meet all the requirements of the Regulation, ARB will notify the Offset Project Registry to retire or cancel the corresponding registry offset credits so they are no longer sellable or tradable on its system. After confirmation of retirement or cancelation, ARB will issue ARB offset credits. Each ARB offset credit represents one metric ton of CO₂e reduction, and is assigned a unique serial number for that specific ton within the Compliance Instrument Tracking System Service (CITSS).

Table 6.1 on the following page describes the detailed steps of the ARB offset credit creation process. It also identifies the requirements for participants in the offset credit creation process.

Table 6.1. Offset Credit Creation Process

| Offset Credit Issuance Process | | | | | | | |
|---|--|---|--|--|---|--|---|
| | Step 1 Listing | Step 2 Monitoring and Reporting | Step 3 Verification | Step 4 OPR Determination of Issuance of Registry Offset Credits (ROC) | Step 5 Issuance of Registry Offset Credits (ROC) | Step 6 ARB Determination of Issuance of ARB Offset Credits (ARBOCs) | Step 7 Issuance of ARB Offset Credits (ARBOCs) |
| Frequency | Once in the Initial Crediting Period and once for each Renewed Crediting Period | Annually | At a minimum annually (see §95977 (b) and (c)) | For each Offset Verification Statement (OVS) | For each OVS | For each OVS | For each OVS |
| Timing | <u>Initial Crediting Period:</u> Before submittal of first Offset Project Data Report (OPDR) <u>Renewed Crediting Period:</u> No earlier than 18 months and not later than 9 months before conclusion of initial crediting period | <u>Initial Crediting Period:</u> Within 24 months of listing then annually <u>Renewed Crediting Period:</u> No breaks in reporting allowed, reporting continues annually from initial crediting period | Within nine months after conclusion of Reporting Period | Within 45 calendar days of receiving OVS | Within 15 calendar days of making determination in Step 4 | Within 45 calendar days of receiving information submitted in §95981(b) and (c) | Within 15 calendar days of making determination in Step 6 |
| Requirements for Offset Project Operator (OPO) or Authorized Project Designee (APD) | <ul style="list-style-type: none"> Submit information in §95975(e) to OPR | <ul style="list-style-type: none"> Submit first OPDR to OPR within 24 months of listing Submit OPDRs to OPR for each Reporting Period | <ul style="list-style-type: none"> Obtain services of ARB-accredited verifier. Verification services may commence 10 working days after Offset Verifier submits Notice of Verification Services to OPR and ARB | <ul style="list-style-type: none"> Provide any necessary information to OPR | N/A | <ul style="list-style-type: none"> Provide information in §95981(b) to ARB | <ul style="list-style-type: none"> Provide attestations in §95981(d) May be required to submit additional information to ARB |
| Requirements for ARB-accredited Verifier | N/A | N/A | <ul style="list-style-type: none"> Before verification services commence submit Notice of Verification Services (NOVS) to ARB and OPR Submit COI self-evaluation to OPR After verification services completed submit Offset Verification Statement (OVS) to OPO/APD and OPR | <ul style="list-style-type: none"> May need to provide additional information to OPR if requested | N/A | <ul style="list-style-type: none"> May need to provide additional information to ARB if requested | <ul style="list-style-type: none"> May be required to submit additional information if requested by ARB |
| Requirements for Offset Project Registry (OPR) | <ul style="list-style-type: none"> OPR sends notice of completeness to OPO/APD OPR submits listing to ARB OPR makes listing publicly available OPR lists project as "Proposed" | <ul style="list-style-type: none"> Receives OPDR from OPO/APDs | <ul style="list-style-type: none"> Receives NOVS from verification body Receives, reviews, and approves COI self-evaluation Receives OVS and detailed verification report from verification body Conducts audits and oversight of verification activities | <ul style="list-style-type: none"> Reviews OVS against requirements of §95980(a) and (b) | <ul style="list-style-type: none"> If OPR determines the requirements for issuance have been met, OPR issues ROCs OPR notifies OPO/APD of issuance OPR changes status to "Active Registry" project | <ul style="list-style-type: none"> May need to provide additional information to ARB if requested | <ul style="list-style-type: none"> May be required to submit additional information if requested If ARBOCs are issued, OPR changes status to "Active ARB" project OPR must retire ROCs before ARBOCs are issued and within 10 calendar days of notification of ARB |
| ARB Actions | <ul style="list-style-type: none"> ARB makes listing publicly available | N/A | <ul style="list-style-type: none"> Conducts audits and oversight of verification activities | N/A | N/A | <ul style="list-style-type: none"> ARB reviews OVS against requirements of §95981 | <ul style="list-style-type: none"> If ARB determines the requirements for issuance have been met, ARB notifies OPR prior to issuing ARBOCs OPR retires ROCs ARB notifies OPO/APD and OPR of issuance ARB creates and transfers ARBOCs to identified parties |

6.6. What Are the Requirements for Offset Project Operators and What Do They Need to Do?

This section describes the requirements that Offset Project Operators (OPO) need to meet and the actions they must take to meet the requirements of the Regulation. It also discusses requirements for Authorized Project Designees (APD).

Key Definitions

“Authorized Project Designee” means an entity authorized by an Offset Project Operator to act on behalf of the Offset Project Operator.

“Forest Owner” means the owner of any interest in the real (as opposed to personal) property involved in a forest offset project, excluding government agency third-party beneficiaries of conservation easements. Generally, a Forest Owner is the owner in fee of the real property involved in a forest offset project. In some cases, one entity may be the owner in fee while another entity may have an interest in the trees or the timber on the property, in which case all entities or individuals with interest in the real property are collectively considered the Forest Owners. However, a single Forest Owner must be identified as the Offset Project Operator.

“Offset Project Operator” means the entity(ies) with legal authority to implement the offset project.

6.6.1. Who Is an Offset Project Operator and What Are the Requirements Under the Regulation?

An *Offset Project Operator* is the entity, or entities, with the legal authority to implement the offset project. This can be applied in the following manner, which is not meant to be an exclusive list. If there is any question about who has the legal authority to implement the offset project, contact ARB.

- Livestock Projects – The OPO may be:
 - The actual owner of the property; and/or
 - The owner of the digester control technology.

If there are other owners or parties that have interest in the offset project or activities associated with the offset project, the OPO may wish to have external third-party contracts with these parties to establish ownership associated with the offset project and/or the offset credits.

- ODS Projects – The OPO may be:
 - The owner (can be the purchasing party) of the ODS material; or
 - A party arranging for the destruction of ODS gas on behalf of ODS gas owner(s).

No matter who the OPO is, that person must have, or be able to provide, point of origin documentation, even if they are not the party that owns the ODS gas. If the OPO is the party arranging for the destruction of the ODS gas there may be multiple sources and owners of the ODS gas that will be lumped into one destruction event. The party arranging for the destruction of the ODS gas may have external third-party contracts with the owners of the ODS gas to establish ownership associated with the offset project and/or the offset credits.

- Urban Forestry Projects – The OPO may be the municipality, utility or educational campus.
- Forest Offset Projects – For forest offset projects there may be multiple forest owners. For instance, aspects of a forest offset project, such as soil carbon, which is included as a required pool in the case of intensive site preparation, may extend beyond the scope of timber rights. Entities that have ownership of non-timber rights within the project area likely will have some control over activities that may affect forest management or carbon sequestration. Given all the potential variables and entities that may share ownership or an interest in the property, a single forest owner must be designated as the Offset Project Operator, and that forest owner will have the primary responsibility for managing the forest project in conformance with the protocol and the Regulation, while all forest owner(s) will still share responsibility for all commitments associated with the forest offset project.

The definition of “forest owner” designates owners of “real” property in the forest as forest owners. In some cases, this could be the fee holder or timber rights holder. When designating one forest owner for purposes of the Offset Project Operator, the forest owner(s) may define in private contracts any specific roles and responsibilities for implementing a forest offset project, including which party(ies) will assume liability for certain parts of the project implementation.

However, the Regulation does not specify the roles and responsibilities of specific private parties with interest in the forest project, land, or rights, except to note that all forest owners are ultimately responsible for compliance with the Regulation and COP. As such, the specific designation of roles and responsibilities is left up to the private parties with interests in the forest project, land, or rights. Depending on the circumstance, ARB has the ability to assess liability against all forest owners associated with a forest offset project.

Offset Project Operators are required to register with ARB, list offset projects, monitor and report, contract for verification services, and provide information, documentation, and attestations to ARB. Some of these duties may be delegated to an Authorized Project Designee. Table 6.2, at the end of this section, describes the obligatory and optional requirements for Offset Project Operators and Authorized Project Designees under the Regulation. Authorized Project Designees are described in more detail in Section 6.6.2 below. The services of an APD may also be established through third-party contracts. The Regulation allows for flexibility in third-party contracts to address specific situations. However, once an OPO or APD is determined, those individuals are held to the applicable requirements of the Regulation.

6.6.2. *What Is an Authorized Project Designee?*

Section 95974 of the Cap-and-Trade Regulation contains the requirements for the optional designation of an *Authorized Project Designee* (APD) by an Offset Project Operator. An APD is a party that is designated under contract or agreement by the Offset Project Operator to implement some or all duties associated with an offset project. There are two main roles that APDs may play in the offset process: (1) they may be assigned certain responsibilities for implementing the offset project and submitting necessary information to offset verifiers, Offset Project Registries, and ARB, and (2) they may have ownership of ARB offset credits and registry offset credits assigned to them by an OPO. During the offset credit issuance process, the OPO may choose to assign the APD or another third party that is not prohibited under the Cap-and-Trade Regulation to hold compliance instruments ownership of ARB offset credits and registry offset credits generated from its project (see section 95974(a)(1)(B)).

The OPO may delegate one or more of the following duties and ownership to an APD or another third party:

Authorized Project Designee

- Offset project listing related requirements (section 95975)
- Monitoring, reporting, and record retention-related requirements (section 95976)
- Verification related requirements (sections 95977–95979)
- Registry offset credit issuance related requirements (section 95980.1)
- ARB offset credit issuance related requirements (sections 95981 and 95981.1)
- Forest reversal related requirements for forest offset projects (section 95983)
- Invalidation related requirements, except for replacement requirements (section 95985)
- Requirements related to early action, where specifically identified (section 95990)

- Ownership of ARB offset credits and registry offset credits

Another Third Party

- Ownership of ARB offset credits and registry offset credits²

To assign responsibilities to an APD, the OPO must submit specific information to the Offset Project Registry. To assist the OPO in submitting the required information, ARB and the Offset Project Registry will make a form available to OPOs that identifies the delegation of specific responsibilities under the Regulation.

Changes and Timing

The OPO may designate an entity as an APD at the time of offset project listing or any time thereafter. However, changes to designation can only be made once within each calendar year after the OPO or APD has listed the offset project. The OPO must submit a written request to an Offset Project Registry requesting any modifications. To assist the OPO in submitting modification information, ARB and the Offset Project Registry will make a modification form that can be used to satisfy this requirement.

6.6.3. *How Do Offset Project Operators and Authorized Project Designees Register with ARB?*

Offset Project Operators and Authorized Project Designees must apply for an account in the CITSS using the same process as other parties in order to receive ARB offset credits and meet the registration requirements of the Regulation. Please see the following website for more information:

<http://www.arb.ca.gov/cc/capandtrade/markettrackingsystem/markettrackingsystem.htm>.

Any third parties receiving ARB offset credits per an OPO or APD request must have an account in the CITSS. If the third party does not have an account in CITSS, ARB offset credits cannot be designated to the third party.

² There may be more than one third-party that can be designated ownership of ARB offset credits. If there is more than one party, the OPO would indicate the percentage of ownership of each party at the time of registry offset credits and ARB offset credits issuance.

Table 6.2. Requirements for Offset Project Operators (OPO) and Authorized Project Designees (APD)

| | Description of Requirement or Action | Section in Regulation | Timing | Form (Y/N) |
|---|---|------------------------------------|---|--------------------|
| Registration | | | | |
| <i>Mandatory Requirements for OPO and APD</i> | | | | |
| Registration | Register with ARB. | §95930 and 95975(a)(1) | Before listing an offset project | Register in CITSS. |
| Designation of Rights and Responsibilities | | | | |
| <i>Optional Requirements for OPO</i> | | | | |
| Designate an Authorized Project Designee (APD) | OPO may identify an APD. If the OPO identifies an APD, the APD will be responsible for meeting specific requirements under the Regulation on behalf of the OPO. | §95974(a)(2) | At the time of offset project listing or any time thereafter, as long as it meets the requirements of §95974(b) | Y |
| Assign Ownership of ARB Offset Credits | OPO may assign ownership of ARB offset credits and registry offset credits to an APD or other third party. | §95974(a)(1) | At the time of registry offset credit and ARB offset credit issuance | Y |
| Offset Project Listing | | | | |
| <i>Mandatory Requirements for OPO or APD, if applicable</i> | | | | |
| Attestations for Listing | Submit attestations regarding program participation and truth, accuracy, and completeness of information submitted for listing. | §95975(c) through (d) and 95981(b) | The attestations in sections 95975(c)(1) through (c)(3) may be submitted at the time of listing to an Offset Project Registry. The attestations must be submitted to ARB when applying for issuance of ARB offset credits (see section 95981(b)). | Y |
| Offset Project Listing Information | List the offset project with ARB or OPR: Submit information required in sections 95975(c) and (e). | §95975(e) | See sections 95975(g) and (i). | Y |

| | Description of Requirement or Action | Section in Regulation | Timing | Form (Y/N) |
|---|--|---------------------------------------|---|---|
| Offset Project Listing (cont.) | | | | |
| <i>Optional Requirements for OPO or APD, if applicable</i> | | | | |
| Petition Process for Offset Project Listing | If an OPR does not accept an offset project for listing, the OPO may request ARB to make a final determination. | §95975(h) and (j) | If an Offset Project Registry denies listing of offset project. | Submit information to ARB. |
| Monitoring | | | | |
| <i>Mandatory Requirements for OPO or APD, if applicable</i> | | | | |
| Monitoring Equipment Procedures | Employ procedures in the applicable Compliance Offset Protocol for monitoring, measurements, and project performance of offset project. | §95976(a) | Continuous | N |
| Monitoring Equipment Installation | Put in place all monitoring equipment or mechanisms required by the applicable Compliance Offset Protocol. | §95976(c) | N/A | N |
| Monitoring Equipment Calibration and Maintenance | Monitor and calibrate all required equipment in a manner and frequency specified in the applicable Compliance Offset Protocol | §95976(a) | Continuous | N |
| Missing Data Methods | Use missing data methods in the applicable Compliance Offset Protocol, if provided and applicable. If not provided, OPO or APD must use interim data collection procedures in section 95976(f), if applicable. | §95976(b) and 95976(f), if applicable | If there is an unforeseen breakdown of gas or fuel analytical monitoring data equipment. | Submit data in Offset Project Data Report (OPDR). |
| Interim Data Collection Procedures | Use interim data collection procedures if missing data methods are not provided in applicable Compliance Offset Protocol, and if interim data collection procedures are applicable. | §95976(f) | Submit a written request to ARB within 30 calendar days of breakdown of gas or fuel analytical data monitoring equipment. | Submit information to ARB. |

| | Description of Requirement or Action | Section in Regulation | Timing | Form (Y/N) |
|---|--|---|---|------------|
| Reporting | | | | |
| <i>Mandatory Requirements for OPO or APD, if applicable</i> | | | | |
| Offset Project Data Reports (OPDR) | Submit Offset Project Data Reports that contain the information required in the applicable Compliance Offset Protocol. | §95976(d), (d)(1) through (d)(4), and (d)(6) through (d)(7) | OPDRs must be submitted to an Offset Project Registry annually within 4 months after the conclusion of the Reporting Period. The first OPDR must be submitted to an Offset Project Registry within 24 months of listing the offset project. | Y |
| OPDR Attestation | Submit attestation regarding truth, accuracy, and completeness of OPDR to the Offset Project Registry. These attestations will also be submitted to ARB. | 95976(d)(5) and 95981(b) | The attestation in section 95975(d)(5) may be submitted to an Offset Project Registry with the OPDR. The attestation must be submitted to ARB when applying for issuance of ARB offset credits (see section 95981(b)). | Y |
| Record Retention | | | | |
| <i>Mandatory Requirements for OPO or APD, if applicable</i> | | | | |
| Retain Records | Retain all records and documents listed in section 95976(e)(1) and retain documents sufficient to support verification of an OPDR. | §95976(e) and (e)(1) through (e)(3) | Retain records continuously for a minimum of 15 years following the issuance of ARB offset credits related to the OPDR. | N |
| Respond to Record Requests | Provide ARB or an Offset Project Registry all documents requested and related to the applicable OPDR. | §95976(e)(4) | Provide documents within 10 calendar days of a request by ARB or an Offset Project Registry. | N |
| Verification | | | | |
| <i>Mandatory Requirements for OPO or APD, if applicable</i> | | | | |
| Use of ARB-accredited Verifier | Obtain services of an ARB-accredited verification body to conduct offset verification services. | §95977(a) | Before offset verification services begin. | N |

| | Description of Requirement or Action | Section in Regulation | Timing | Form (Y/N) |
|---|---|-----------------------|--|------------|
| Verification (cont.) | | | | |
| <i>Mandatory Requirements for OPO or APD, if applicable</i> | | | | |
| Procure Offset Verification Services: Non-sequestration Projects | Procure offset verification services for non-sequestration offset projects. | §95977(b) | Verification must be conducted annually for each Reporting Period, unless the project generates less than 25,000 metric tons CO ₂ e/year | N |
| Procure Offset Verification Services: Sequestration Projects | Procure offset verification services for sequestration offset projects. | §95977(c) | The first verification must be conducted after the first Reporting Period and at least once every six years thereafter. | N |
| Rotation of Verification Bodies | Obtain services of a different verification body every six years. | §95977.1(a) | Every six years, applied at the offset project level. Applies to verification bodies and individual verifiers. | N |
| Offset Verification Plan | Submit information in section 95977.1(b)(3)(A) to the verification body so they can develop an offset verification plan. | §95977.1(b)(3)(A) | OPO/APD will most likely give the verification body this information at the beginning of the verification process. This information is included by the verification body in the verification report. | N |
| Availability of Calculation Data | Provide the offset verification team all information and documentation used to calculate and report project baseline and annual GHG emissions, GHG reductions, GHG removal enhancements, and other information required by the applicable Compliance Offset Protocol. | §95977.1(b)(3)(F) | Provide the information and documentation when requested by the verification team, to enable them to provide verification services. | N |
| Modifications to OPDR | If needed, make any possible improvements or corrections to the applicable OPDR. If applicable, submit a revised OPDR to the Offset Project Registry. The OPO or APD must retain these records for 15 years following issuance of ARB offset credits. | §95977.1(b)(3)(M) | Provide the modifications prior to completion of Offset Verification Statement. | Y |
| Availability of OPDR and OVS Information | Provide ARB or an Offset Project Registry all data used to generate an OPDR if requested. | §95977.1(b)(3)(U) | Within 10 working days of the request. This occurs after verification. | N |

| | Description of Requirement or Action | Section in Regulation | Timing | Form (Y/N) |
|---|--|----------------------------|--|----------------|
| Verification (cont.) | | | | |
| <i>Optional Requirements for OPO or APD, if applicable</i> | | | | |
| Frequency of Offset Verification Services: Non-sequestration Projects Under 25,000 Metric Tons | OPO or APD may procure offset verification services for non-sequestration offset projects under 25,000 metric tons CO ₂ e less frequently. (See Timing) | §95977(b) | Verification must be conducted for each Reporting Period, unless the project generates less than 25,000 metric tons CO ₂ e, in which case the OPO may choose to verify two consecutive Reporting Periods. | N |
| Frequency of Offset Verification Services: Forest Offset Projects, Except Reforestation Projects | OPO or APD may procure offset verification services for forest projects less frequently. (See Timing) | §95977(c) | The first verification must be conducted after the first Reporting Period. Each subsequent verification may be deferred for up to 6 years. | N |
| Frequency of Offset Verification Services: Reforestation Projects | OPO or APD may procure offset verification services for reforestation projects less frequently. (See Timing) | §95977(c) | The first verification must be conducted after the first Reporting Period. The second verification may be deferred for up to 12 years. Following the second verification, it must be conducted at least once every six years thereafter. | N |
| Dispute Resolution for Adverse Offset Verification Statements | OPO or APD may petition ARB to make a decision as to the verifiability of an OPDR. OPO or APD may need to submit additional information to ARB. | §95977.1(b)(3)(R)6. and 7. | If OPO or APD and verification body cannot reach agreement on modifications to the OPDR. If applicable, additional information must be submitted within 30 calendar days of ARB's determination. | Submit to ARB. |
| Issuance of Registry Offset Credits | | | | |
| <i>Mandatory Requirements for OPO or APD, if applicable</i> | | | | |
| Registry Offset Credit Issuance | Submit offset project listing information, OPDRs, and Offset Verification Statement. | §95980(a) | After being issued a Positive or Qualified Positive Offset Verification Statement | Y |

| | Description of Requirement or Action | Section in Regulation | Timing | Form (Y/N) |
|---|--|---------------------------|--|-----------------|
| Issuance of ARB Offset Credits | | | | |
| <i>Mandatory Requirements for OPO or APD, if applicable</i> | | | | |
| Attestations for ARB Offset Credit Issuance | Submit the attestations required in sections 95975(c)(1), 95975(c)(2), 95975(c)(3), 95976(d)(5), 95977.1(b)(3)(R)4.b., 95977.1(b)(3)(R)4.e., and 95977.1(b)(3)(R)4.f., and any in the applicable Compliance Offset Protocol and section 95981(d). | §95981(b)(1) and 95981(d) | After being issued registry offset credits at time of request for issuance of ARB offset credits. Attestations 95977.1(b)(3)(R)4.b., 95977.1(b)(3)(R)4.e., and 95977.1(b)(3)(R)4.f. are included on the Offset Verification Statement required to be submitted in section 95981(b)(4). | Y (Multiple) |
| ARB Offset Credit Issuance | Submit the offset project listing information, OPDRs, and Offset Verification Statement. | §95981(b) | After being issued registry offset credits | Y |
| Information Requests | Submit information to ARB if requested for issuance of ARB offset credits. | §95981.1(d)(2) | N/A | N |
| <i>Optional Requirements for OPO or APD, if applicable</i> | | | | |
| Petition Process for ARB Offset Credit Issuance | If ARB denies issuance of ARB offset credits if the information submitted does not meet the requirements of the Regulation, the OPO or APD may request that ARB review all of the submitted information and make a final determination whether ARB offset credits may be issued. | §95981.1(d)(3) and (4) | Within 10 calendar days of denial | Submit to ARB. |

6.7. What Are the Requirements for Listing Offset Projects?

This section describes the requirements that an OPO or APD must follow for offset project listing, including: the timing requirements, determination and notification of listing by an Offset Project Registry, and listing status. These requirements are found in section 95975 of the Regulation.

6.7.1. Requirements for Listing

An OPO or APD must list an offset project with an approved Offset Project Registry before the OPO or APD can monitor, report, and verify the GHG reductions and removal enhancements achieved from the offset project and before registry offset credits and ARB offset credits may be issued. Listing represents the first step in the process of providing information regarding the offset project to ARB and an Offset Project Registry. In the compliance offset program, the listing of an offset project does not determine the eligibility of the offset project to be issued offset credits. The first verification will serve as validation to determine whether the offset project meets all of the regulatory requirements.

- *Step 1:* Select and contact an Offset Project Registry

ARB will post information about approved Offset Project Registries on its Compliance Offset Program website. If a registry is not listed on the ARB website, it is not an approved Offset Project Registry and should not be used if the intent is to develop offset projects using COPs and then seek issuance of ARB offset credits.

- *Step 2:* Submit the required information and attestations to the Offset Project Registry. These include:
 - Offset Project Listing information – specific to each COP;
 - Attestations of Regulatory Compliance, Voluntary Participation, and Implementation Compliance (sections 95975(c)(1) - 95975(c)(3));³ and
 - Designation of Rights and Responsibilities for Offset Project Operator(s) to Approved Project Designee(s) (optional).

6.7.2. Timing for Submittal of Listing Information

The timing for submittal of listing information to an Offset Project Registry depends on whether the offset project is listing for an initial or a renewed crediting period. The following describes the timing requirements.

³ Offset Project Registries may also require attestations for participating in their registry systems. For example, they may require participants to sign attestations at the time of listing, reporting, verification, and issuance of registry offset credits. ARB will not enforce any attestations between offset project operators and approved Offset Project Registries.

Submittal in an Initial Crediting Period

The OPO or APD must submit the information required for listing no later than the date at which it submits its first Offset Project Data Report to an Offset Project Registry.

Submittal in a Renewed Crediting Period

The OPO or APD must submit the information required for listing no earlier than 18 months and no later than 9 months before conclusion of the initial crediting period or a previous renewed crediting period. For example, if the current crediting period is scheduled to end on January 1, 2018, the OPO or APD must submit the listing information within the time frame of July 1, 2016, and April 1, 2017.

How Listing Timing Requirements Apply to New Offset Projects

The OPO/APD must submit the first Offset Project Data Report within 24 months of listing the offset project with an Offset Project Registry (section 95976(d)). There is no requirement in the Regulation that requires a new project to list within a certain period of time after the offset project commencement date.

6.7.3. *Determination of Completeness of Listing*

If the Offset Project Registry, after reviewing the information submitted by the OPO or APD, finds that the information submitted for listing is complete, it will list the offset project on its webpage. If the information is found to be incomplete, it will notify the OPO or APD within 30 calendar days of making the determination. If the Offset Project Registry does not accept the offset project for listing, the OPO or APD may request ARB to make a final determination through a petition process in which ARB is the final arbiter. ARB may consult with the Offset Project Registry in making its final determination (See section 95975(h)).

For offset projects seeking a renewed crediting period, the offset project may be renewed if it still meets the requirements for additionality. These requirements are described in more detail in Section 6.4 of this document.

6.7.4. *Listing Status*

The listing status—or indication of where an offset project is in the offset credit creation process—depends on whether an offset project is listing for an initial or a renewed crediting period. The following describes the listing status in the initial stages of the offset project. Once an offset project has been issued registry offset credits and ARB offset credits, the listing status will change. These steps in the process will be discussed later, in Section 6.10.

Listing Status in an Initial Crediting Period

Once the Offset Project Registry determines that an offset project meets the requirements for listing in an initial crediting period, it will list the offset project as a

“Proposed Project” on its webpage. ARB will also include a link on its webpage to all listed offset projects on the Offset Project Registries’ webpages.

Listing Status in a Renewed Crediting Period

Once the Offset Project Registry determines that an offset project meets the requirements for listing in a renewed crediting period, it will list the offset project as a “Proposed Renewal” on its webpage. ARB will also include a link on its webpage to all listed offset projects on the Offset Project Registries’ webpages.

What Happens to the Listing Status if an Offset Project Is Never Issued Offset Credits?

At some point after an offset project is listed and the listing status is “proposed,” the offset project will undergo verification. The first verification acts as a validation that the offset project meets the requirements of the Regulation and the applicable Compliance Offset Protocol. ARB and the Offset Project Registry will use the verification opinion generated during this first verification to help determine whether the offset project has met all the requirements of the Regulation and the applicable Compliance Offset Protocol. If the offset project cannot meet the requirements of verification, and is therefore ineligible for registry offset credit and ARB offset credit issuance, the project will remain in the “proposed” listing status and the status will not be changed to “active.” The Regulation does not address de-listing of offset projects.

6.7.5. *Additional Listing Requirements for Offset Projects on Tribal Land*

Offset projects on tribal lands must enter into a limited waiver of sovereign immunity with ARB in order to generate compliance offsets under the Cap-and-Trade Regulation. If an offset project is located on one or more of the following categories of land, it must demonstrate that a limited waiver of sovereign immunity exists between ARB and the governing body of the Tribe:

- Land that is owned by, or subject to, an ownership or possessory interest of the Tribe
- Land that is “Indian Land” of the Tribe, as defined by 25 U.S.C. §81(a)(1)
- Land that is owned by any person, entity, or tribe, within the external borders of such Indian Lands

The additional requirements for listing for offset projects in at least one of the above-mentioned categories include the following:

- The governing body of the Tribe must enter into a limited waiver of sovereign immunity with ARB in order to generate compliance offsets under the Cap-and-Trade Regulation. The limited waiver of sovereign immunity must be in place for the duration required by the applicable COP being used for the offset project. This waiver must include a consent to suit by the State of California, Air Resources Board, in the courts of the State of California, with respect to any action in law or equity commenced by the State of California, Air Resources

Board to enforce the obligations of the Tribe with respect to its participation in the Cap-and-Trade Program, irrespective of the form of relief sought, whether monetary or otherwise.

- The Tribe must provide ARB with documentation demonstrating that the limited waiver of sovereign immunity has been properly adopted in accordance with the Tribe's Constitution or other organic law, by-laws and ordinances, and applicable federal laws.
- For offset projects located on Indian lands, as defined in 25 U.S.C. §81(a)(1), the Tribe must provide ARB with proof of federal approval of the Tribe's participation in the requirements of the Cap-and-Trade Program, or documentation from the U.S. Department of the Interior, Bureau of Indian Affairs, that federal approval is not required.

6.8. What Are the Monitoring, Reporting, and Record Retention Requirements?

This section describes the provisions in section 95976 of the Regulation, which include monitoring, reporting, and record retention. The provisions for monitoring of offset projects include general requirements for monitoring, missing data procedures, and general interim data collection procedures. This section also describes the reporting schedule and timing, and the record retention requirements associated with offset projects.

Key Definitions

“Greenhouse Gas Emissions Source” or “GHG Emissions Source” means, in the context of offset credits, any type of emitting activity that releases GHGs into the atmosphere.

“Greenhouse Gas Reservoir” or “GHG Reservoir” means a physical unit or component of the biosphere, geosphere, or hydrosphere with the capability to store, accumulate, or release a GHG removed from the atmosphere by a GHG sink or a GHG captured from a GHG emission source.

“Greenhouse Gas Sink” or “GHG Sink” means a physical unit or process that removes a GHG from the atmosphere.

“Monitoring” means, in the context of offset projects, the ongoing collection and archiving of all relevant and required data for determining the project baseline, project emissions, and quantifying GHG reductions or GHG removal enhancements that are attributable to the offset project.

“Offset Project Data Report” means the report prepared by an Offset Project Operator or Authorized Project Designee each year that provides the information and documentation required by this article or a Compliance Offset Protocol.

“Reporting Period” means, in the context of offsets, the period of time for which an Offset Project Operator or Authorized Project Designee quantifies and reports GHG reductions or GHG removal enhancements covered in an Offset Project Data Report. The first reporting period for an offset project in an initial crediting period may consist of 6 to 24 consecutive months; all subsequent reporting periods in an initial crediting and all reporting periods in any renewed crediting period must consist of 12 consecutive months.

6.8.1. Monitoring Requirements

OPOs or APDs must implement the procedures for monitoring measurements and project performance as described in the applicable Compliance Offset Protocol for the

offset project type. OPOs or APDs must also put in place all monitoring equipment or mechanisms required by the applicable Compliance Offset Protocol. The Cap-and-Trade Regulation requires that all monitoring equipment be maintained and calibrated in a manner and at a frequency required by the equipment manufacturer, unless a Compliance Offset Protocol specifies other maintenance and frequency requirements for that offset project type. The OPO or APD must show that all monitoring, sampling, or testing procedures are conducted in a manner consistent with the applicable maintenance, calibration, and frequency procedures.

Missing Data Procedures

The OPO or the APD must use the missing data methods in the relevant Compliance Offset Protocol if they are provided in the protocol and are applicable. If the Compliance Offset Protocol does not include missing data procedures, ARB may approve the use of interim data of gas or fuel analytical data and monitoring equipment data. The general requirements for approval of interim data are described below:

General Interim Data Collection Procedures

If the Compliance Offset Protocol does not include missing data procedures and there is an unforeseen breakdown of gas or fuel analytical monitoring data equipment, ARB may authorize an OPO or APD to use an interim data collection procedure (see section 95976(f)). To approve an interim data collection procedure, ARB must determine that the OPO or APD has satisfactorily demonstrated the following:

- The breakdown could result in a loss of more than 20 percent of the source's gas or fuel data for the year covered by an Offset Project Data Report;
- The gas or fuel analytical data monitoring equipment cannot be promptly repaired or replaced without shutting down a process unit that would significantly affect the offset project operations, or that the monitoring equipment must be replaced and replacement equipment is not immediately available;
- The interim procedure will not remain in effect longer than is reasonably necessary for repair or replacement of the malfunctioning data monitoring equipment; and
- The request to use an interim data collection procedure was submitted within 30 calendar days of the breakdown of the gas or fuel analytical data monitoring equipment. This request must be submitted to ARB and may not go through an Offset Project Registry. The written request must include the following information:
 - The start date and proposed end date of the interim data collection procedure;

- A detailed description of what data are affected by the breakdown;
- A discussion of the accuracy of data collected during the interim data collection procedure compared with the data collected under the OPO's or APD's usual equipment-based method; and
- A demonstration that no feasible alternative procedure exists that would provide more accurate data.

In approving an interim procedure, ARB may limit the duration of the interim data collection procedure or include other conditions of approval. ARB will also determine whether the accuracy of data collected under the procedure is reasonably equivalent to data collected from properly functioning monitoring equipment. If ARB determines that the accuracy of the data is not comparable, it will assign the relative accuracy for purposes of assessing possible offset material misstatement.

If an interim data collection procedure is approved, the data collected will be considered captured data for purposes of compliance with a Compliance Offset Protocol.

Variances

ARB will not issue variances for procedures or requirements in the Compliance Offset Protocols. Offset Project Registries are also not allowed to issue variances for an offset project developed under a Compliance Offset Protocol. Some voluntary offset programs do include a variance process, but ARB's program does not allow for any deviation from the requirements in the Regulation or Compliance Offset Protocols.

6.8.2. Reporting Requirements

The requirements for the types of information that must be submitted in an Offset Project Data Report are included in the applicable Compliance Offset Protocol and section 95976(d) of the Regulation.

OPOs or APDs must submit their first Offset Project Data Report to an Offset Project Registry within 24 months of listing their offset project for an initial crediting period. OPOs or APDs must also submit Offset Project Data Reports to ARB at the time of ARB offset credit issuance, as required in section 95981(b)(3) of the Regulation.

Each Offset Project Registry will provide OPOs and APDs with a reporting tool or system for submitting Offset Project Data Reports.

OPOs or APDs must submit an Offset Project Data Report to an Offset Project Registry annually for each Reporting Period. For an offset project in an initial crediting period, the first Reporting Period may consist of a 6- to 24-consecutive-month period. Thereafter, for an offset project in any crediting period—whether an initial or renewed crediting period—all subsequent Reporting Periods must consist of a 12-consecutive-month period. Each Offset Project Data Report can only cover a single Reporting Period, and once reporting begins, there must be no gaps in reporting.

All Offset Project Data Reports are due to an Offset Project Registry within four months after the conclusion of each Reporting Period. If the applicable reporting deadline is not met, ARB offset credits will not be issued for the GHG reductions or removal enhancements achieved by the offset project during that Reporting Period. Thus, in order to be eligible to be issued ARB offset credits it is essential to submit Offset Project Data Reports on time to an Offset Project Registry. Even if the reporting deadline is missed, the OPO or APD must provide the Offset Project Data Report to meet the requirements for continuous reporting.

How Reporting Timing Requirements Apply to New Offset Projects

Reporting is required for each Reporting Period once the OPO or APD submits its first Offset Project Data Report. Pursuant to the Regulation, the OPO or APD must submit the first Offset Project Data Report in an initial crediting period within 24 months of listing the offset project with an Offset Project Registry (section 95976(d)). For example, if you list the offset project on December 1, 2012, you have until December 1, 2014, to submit your first Offset Project Data Report. That Offset Project Data Report must cover a Reporting Period.

It is also important to point out for new offset projects that the first Reporting Period can consist of 6 to 24 months (see definition of Reporting Period), which means that the OPO or APD can only go back and be issued offset credits for a maximum 24 months prior to submitting the Offset Project Data Report. After the conclusion of the first Reporting Period, the OPO or APD has 4 months to submit its first Offset Project Data Report. This means that a total of 28 months may elapse before offset verification services would begin for the offset project. This assumes that the OPO or APD listed the offset project when the Offset Project Data Report was submitted.

A new offset project cannot be issued offset credits for any GHG reductions or removal enhancements that occurred before the first established Reporting Period. The OPO or APD cannot submit multiple reports for the first verification, unless it is a smaller non-sequestration offset project that is approved to defer verification (in this case, only two Offset Project Data Reports could be submitted for the first verification). The OPO or APD may want to consider these restrictions when planning the submission of data.

After the first Reporting Period, each subsequent Reporting Period must consist of 12 months. The Regulation only allows the first Reporting Period to deviate from the standard 12 month time frame.

6.8.3. *Record Retention Requirements*

Section 95976(e) of the Regulation requires that OPOs and APDs retain all documents related to an offset project for a minimum of 15 years in paper, electronic, or other usable format. Specifically OPOs and APDs must retain all documents that are associated with the preparation of an Offset Project Data Report. These records must be retained for a minimum of 15 years following the issuance of ARB offset credits that resulted from the Offset Project Data Report in question. The documentation retained must also be sufficient to allow for the verification of each Offset Project Data Report.

ARB or Offset Project Registries may also request documentation from OPOs and APDs, including data used to develop an Offset Project Data Report. OPOs and APDs are required to provide this information to the Offset Project Registry or ARB within 10 calendar days of the request.

The following bullets outline specific documents that OPOs and APDs must retain:

- All information submitted as part of an Offset Project Data Report
- Documentation of the offset project boundary, including a list of all GHG sources, GHG sinks, and GHG reservoirs included in the offset project boundary and the project baseline, and the calculation of the project baseline, project emissions, GHG emission reductions, and GHG removal enhancements
- Fuel use and any other underlying measured or sampled data used to calculate project baseline emissions, GHG emission reductions, and GHG removal enhancements for each source, categorized by process and fuel, or material type
- Documentation of the process for collecting fuel use or any other underlying measured or sampled data for the offset project and its GHG emissions sources, GHG sinks, and GHG reservoirs for quantifying project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements
- Documentation of all project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements
- All point-of-origin and chain-of-custody documents required by a Compliance Offset Protocol, if applicable
- All chemical analyses, results, and testing-related documentation for material and sources used for inputs to project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements
- All model inputs or assumptions used for quantifying project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements
- Any data used to assess the accuracy of project baseline emissions, GHG emission reductions, and GHG removal enhancements from each offset project's GHG emissions source, GHG sink, and GHG reservoir, categorized by process
- Quality assurance and quality control information, including information regarding any measurement gaps, missing data substitution, calibrations or maintenance records for monitoring equipment, or models providing data for calculating project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements

- A detailed technical description of any offset project continuous measurement/monitoring system, including documentation of any findings and approvals by federal, state, and local agencies
- Raw and aggregated data from any measurement system
- Documentation of any changes over time and the log book on tests, down-times, calibrations, servicing, and maintenance for any measurement/monitoring equipment providing data for project baseline calculations, project emissions, GHG emission reductions, and GHG removal enhancements
- For sequestration offset projects, documentation of inventory methodologies and sampling procedures, including all calculation methodologies and equations used, and any data related to plot sampling
- Any other documentation or data required to be retained by a Compliance Offset Protocol, if applicable

6.9. What Are the Requirements for Offset Verification?

This section describes the schedule and timing requirements for offset verification which are found in sections 95977–95979 of the Regulation. More details about offset verification services and the requirements for offset verification can be found in a separate document on general offset verification. This section also briefly discusses the conflict-of-interest requirements for verification of Offset Project Data Reports.

Key Definitions

“Adverse Offset Verification Statement” means an Offset Verification Statement rendered by a verification body attesting that the verification body cannot say with reasonable assurance that the submitted Offset Project Data Report is free of an offset material misstatement, or that it cannot attest that the Offset Project Data Report conforms to the requirements of this article or applicable Compliance Offset Protocol.

“Conflict of Interest” means, for purposes of this article, a situation in which, because of financial or other activities or relationships with other persons or organizations, a person or body is unable or potentially unable to render an impartial Offset Verification Statement of a potential client’s Offset Project Data Report, or that the person or body’s objectivity in performing offset verification services is or might be otherwise compromised.

“Less Intensive Verification” means, for the purposes of this article, the offset verification services provided in interim years between full verifications of an Offset Project Data Report. Less intensive verification of an Offset Project Data Report only requires data checks and document reviews of an Offset Project Data Report based on the analysis and risk assessment in the most current sampling plan developed as part of the most recent full offset verification services. This level of verification may only be used if the offset verifier can provide findings with a reasonable level of assurance.

“Offset Material Misstatement” means a discrepancy, omission, or misreporting, or aggregation of the three, identified in the course of offset verification services that leads an offset verification team to believe that an Offset Project Data Report contains errors resulting in an overstatement of the reported total GHG emission reductions or GHG removal enhancements greater than 5 percent. Discrepancies, omissions, or misreporting, or an aggregation of the three, that result in an understatement of total reported GHG emission reductions or GHG removal enhancements in the Offset Project Data Report is not an offset material misstatement.

“Offset Verification” means a systematic, independent, and documented process for evaluation of an Offset Project Operator’s or Authorized Project Designee’s Offset Project Data Report against ARB’s Compliance Offset Protocols and this article for calculating and reporting project baseline emissions, project emissions, GHG reductions, and GHG removal enhancement.

“Offset Verification Services” means services provided during offset verification as specified in sections 95977.1 and 95977.2, including reviewing an Offset Project Operator’s or Authorized Project Designee’s Offset Project Data Report, verifying its accuracy according to the standards specified in this article and applicable Compliance Offset Protocol, assessing the Offset Project Operator’s or Authorized Project Designee’s compliance with this article and applicable Compliance Offset Protocol, and submitting an Offset Verification Statement to ARB or an Offset Project Registry.

“Offset Verification Statement” means the final statement rendered by a verification body attesting whether an Offset Project Operator’s or Authorized Project Designee’s Offset Project Data Report is free of an offset material misstatement, and whether the Offset Project Data Report conforms to the requirements of this article and applicable Compliance Offset Protocol.

“Positive Offset Verification Statement” means an Offset Verification Statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the submitted Offset Project Data Report is free of an offset material misstatement and that the Offset Project Data Report conforms to the requirements of this article and applicable Compliance Offset Protocol.

“Verification Body” means a firm accredited by ARB that is able to render an offset verification statement and provide offset verification services for Offset Project Operators or Authorized Project Designees subject to providing an Offset Project Data Report under this article.

“Verifier” means an individual accredited by ARB to carry out offset verification services as specified in sections 95977.1 and 95977.2.

6.9.1. Use of ARB-Accredited Offset Verification Bodies and Offset Verifiers

Section 95977(a) of the Regulation requires independent third-party verification of GHG reductions and removals by an ARB-accredited offset verifier. OPOs or APDs are required to obtain the services of an ARB-accredited offset verifier for verifying each Offset Project Data Report that they submit to an Offset Project Registry.

6.9.2. Verification Schedule Requirements

While the submittal of Offset Project Data Reports is required on an annual basis, deferring verification to less than an annual schedule may be allowed under certain circumstances. The schedule for submitting verified Offset Project Data Reports depends on whether the project is a non-sequestration or sequestration offset project. Also, for non-sequestration offset projects, the frequency of verification may depend on the size of the offset project or how many GHG reductions it achieves. The requirements for each are described below and can be found in sections 95977(b) and (c) of the Regulation. Verification requires that a site visit be performed at the offset project location, except in the case of less intensive verification, which is described below under the Schedule for Verification of Sequestration Offset Projects heading.

Schedule for Verification of Non-Sequestration Offset Projects

For non-sequestration offset projects, OPOs and APDs must obtain verification services for each Offset Project Data Report on an annual basis, except for smaller projects.

Exception for Smaller Offset Projects: If an offset project produces fewer than 25,000 metric tons of GHG reductions for a given Reporting Period, the OPO or APD may choose to perform verification that covers two Offset Project Data Reports for two consecutive Reporting Periods. For example, if in a Reporting Period the Offset Project Data Report shows that a total of 20,000 metric tons of GHG reductions were achieved, the OPO or APD may wait another year to perform verification and include a review of that Offset Project Data Report and the one for the next Reporting Period as well. In such a case, the offset verifier would provide verification services once for the period of time covered by two separate Reporting Periods in the two separate Offset Project Data Reports. An offset project may meet this requirement if after a Reporting Period the total number of GHG reductions is less than 25,000 metric tons CO₂e and the OPO or APD defers verification, even if the second year's Offset Project Data Report includes more than 25,000 metric tons CO₂e. The deferment is based on the number of GHG reductions claimed in the first Reporting.

The initial verification conducted for an offset project following the first Reporting Period under a Compliance Offset Protocol also includes a validation step to ensure that the project meets the requirements of the Regulation and applicable Compliance Offset Protocol. The sooner the verification is performed, the more likely any errors will be discovered early and corrected to reduce the potential for loss of offset credits.

Schedule for Verification of Sequestration Offset Projects

For sequestration offset projects, OPOs and APDs must obtain full offset verification services at least once every six years. The exception to this is that the first Offset Project Data Report must be verified within nine months of conclusion of the first Reporting Period. This initial verification conducted for an offset project following the first Reporting Period under a Compliance Offset Protocol also includes validation that the project meets the requirements of the Regulation and applicable COP. After a successful initial verification, one verification service may cover up to six Offset Project Data Reports—or six Reporting Periods. Full offset verification services, which include a site visit, would need to be conducted after the sixth Reporting Period and may be conducted more frequently.

Exception for Reforestation Projects: There are also alternate provisions in the Regulation for reforestation offset projects. Again, the first OPDR must be verified within nine months of the conclusion of the first Reporting Period. After receiving an initial Positive Offset Verification Statement for the first Offset Project Data Report, they may defer the second verification for 12 years. The verification of Offset Project Data Reports after the initial 12-year period must return to the regular verification cycle of at least once every 6 years.

Less Intensive Verification: Forest projects developed under the Compliance Offset Protocol U.S. Forest Projects may opt to have less intensive verifications performed in interim years between full verifications. Full offset verification services must still be conducted at least once every six years. Less intensive verification of an Offset Project Data Report only requires data checks and document reviews of an Offset Project Data Report based on the analysis and risk assessment in the most current sampling plan developed as part of the most recent full offset verification. A site visit is not required. See section 10.2.3 of the Compliance Offset Protocol U.S. Forest Projects October 20, 2011, for further requirements that must be met to qualify for less intensive verification.

An OPO or APD may be issued offset credits in the interim years between full verification services if they meet the requirements of the Regulation and the protocol. If less intensive verification is conducted in interim years, there will be a true up in the year in which full offset verification services are conducted. If more offset credits were issued in the interim years than should have been issued, they will be deducted from the total issued in the year of full offset verification services. If less were issued than should have been, more offsets will be issued in the year of the true up.

6.9.3. *Verification Timing Requirements*

All Offset Verification Statements are due to an Offset Project Registry within nine months after the conclusion of the Reporting Period for which offset verification services were performed. For non-sequestration projects over 25,000 metric tons, this deadline must be met annually. For non-sequestration projects under 25,000 metric tons, this deadline may be postponed for a total of two Reporting Periods. At the time of offset verification services, the verification body would issue an Offset Verification Statement for each Reporting Period that is covered under the full offset verification services. In this case, there would be two Offset Verification Statements issued.

For sequestration projects, this deadline may occur once every six years after the last Reporting Period, depending on the frequency of verification chosen by the OPO or APD. At the time of the offset verification services, the verification body would issue an Offset Verification Statement for each Reporting Period that is being covered under the full offset verification service. In this case, there could be up to six Offset Verification Statements issued.

If the applicable deadline for submitting the Offset Verification Statement is not met, registry offset credits and ARB offset credits will not be issued for the GHG reductions or removal enhancements achieved by the offset project during that Reporting Period. Thus, submitting your Offset Verification Statement on time to an Offset Project Registry is essential to being eligible to be issued registry and ARB offset credits.

6.9.4. *Conflict-of-Interest Requirements*

Section 95979 of the Regulation includes rigorous conflict-of-interest requirements for verification of Offset Project Data Reports. Stringent conflict-of-interest provisions are

necessary to ensure the integrity of the offsets system and to ensure that all reviews associated with the data from offset projects are unbiased and independent. Conflict of interest needs to be taken into account by the OPO and APD and by the verification body before they contract for offset verification services. Conflict-of-interest requirements for offset verification, including specific requirements for air quality management districts and air pollution control districts, are discussed in detail in a separate guidance document on general offset verification.

If ARB finds at any time that a high level of conflict of interest exists, or if an Offset Project Data Report fails an audit, ARB may set aside the Positive or Qualified Positive Offset Verification Statement and require that the OPO or APD obtain a new verification of the affected reports by a different verification body within 90 calendar days.

6.10. What Are the Requirements and Process for Offset Credit Issuance, and How Are Offset Credits Traded?

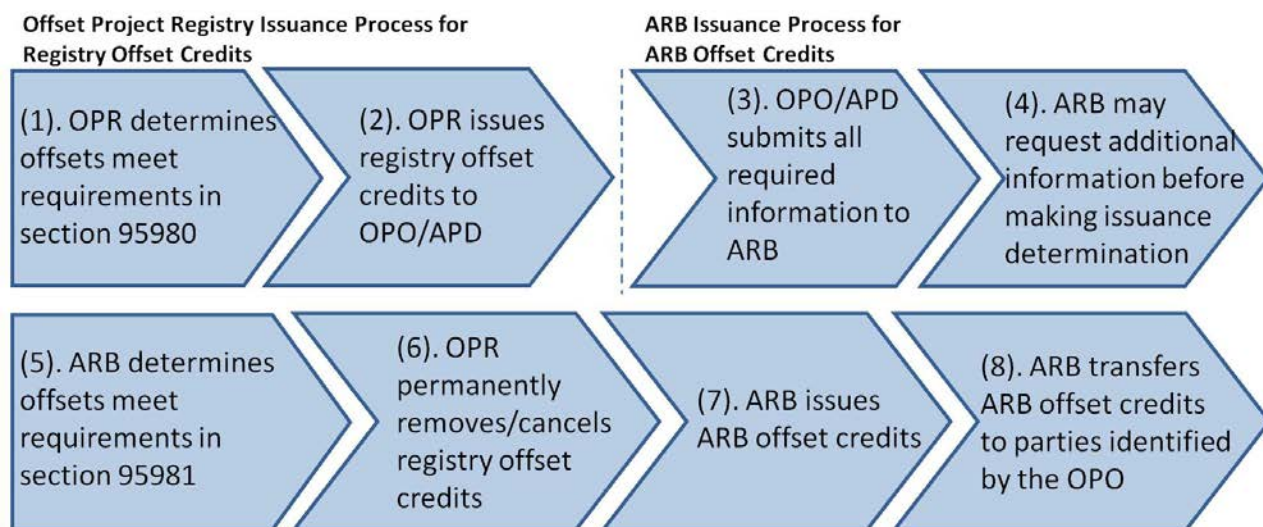
This section describes the requirements and process for issuing ARB offset credits and registry offset credits. The requirements and process for issuing ARB offset credits can be found in sections 95981 and 95981.1, respectively. The requirements and process for issuing registry offset credits can be found in sections 95980 and 95980.1, respectively. This section also describes ownership of ARB offset credits and how they may be transferred and traded.

Key Definitions

“Issue” or “Issuance” means, in the context of offset credits, the creation of ARB offset credits or registry offset credits equivalent to the number of verified GHG reductions or GHG removal enhancements for an offset project over a specified period of time. In the context of allowances, *issue* means the placement of an allowance into an account under the control of the Executive Officer.

Figure 6.1 shows the process for issuing ARB and registry offset credits. Offset projects will first be issued registry offset credits, and after meeting additional criteria may be issued ARB offset credits. Section 6.10.1 describes the registry offset credit issuance requirements and process, as shown in the top set of arrows in Figure 6.1. Section 6.10.2 describes the ARB offset credit issuance requirements and process. This process is shown in the bottom set of arrows in Figure 6.1.

Figure 6.1 Offset Credit Issuance Process



6.10.1. *What Are the Requirements and Process for Registry Offset Credit Issuance?*

The Regulation establishes the requirements and process for registry offset credit issuance. All registry offset credits represent one metric ton of CO₂e and must result from a direct emission reduction or GHG removal enhancement.

Requirements for Registry Offset Credit Issuance (Section 95980)

The following criteria must be met before an Offset Project Registry (OPR) may issue registry offset credits:

- The OPO or APD has listed the offset project with the Offset Project Registry from whom they are seeking issuance of registry offset credits
- The GHG reductions and removal enhancements achieved in the Offset Project Data Report were issued a Positive Offset Verification Statement or a Qualified Positive Offset Verification Statement, if applicable for the offset project type, by an ARB-accredited verification body
- The offset verifier has submitted the Positive or Qualified Positive Offset Verification Statement to the Offset Project Registry for the Offset Project Data Report for which the OPO or APD is seeking issuance of registry offset credits
- All deadlines for specific actions have been met, as stipulated in the Regulation

The Offset Project Registry will review the information provided and has 45 calendar days to determine if all of the above criteria have been met. They will also determine whether the Positive or Qualified Positive Offset Verification Statement meets the requirements of sections 95977, 95977.1, and 95977.2. The Offset Project Registry may have its own process for requesting additional information from the OPO, APD, or verification body. However, the Offset Project Registry must still make its determination within the 45 calendar days, as specified in the Regulation.

- *Timing and Duration of Initial Crediting Period* – The timing and duration of an initial crediting period will be determined based on the Offset Verification Statement submitted for the first Reporting Year. The initial crediting period will begin with the date that the first GHG reductions or removal enhancements occurred, according to the Offset Verification Statement (section 95980(c)).

Offset projects that are transitioning from the Early Action Offset Program will begin an initial crediting period when they transition to a Compliance Offset Protocol. They will not continue the crediting period established under the Early Action Offset Program (section 95990(k)(2)). The initial crediting period will begin with the date that the first GHG reductions or

removal enhancements occurred according to the Offset Verification Statement submitted under a Compliance Offset Protocol.

- *Timing and Duration of Renewed Crediting Period* – A renewed crediting period will begin the day after the conclusion of the prior crediting period, regardless of when GHG reductions or removal enhancements occur (section 95980(d)). This applies to all offset projects.

Process for Registry Offset Credit Issuance (Section 95980.1)

Step 1: Issuance – If an Offset Project Registry determines that the requirements for the issuance of registry offset credits have been met, it will issue registry offset credits within 15 calendar days of making its determination. The registry offset credits will be issued to the OPO, APD, or any other approved third party that is authorized by the OPO to receive registry offset credits.

The OPO will need to provide information for registry offset credit issuance. To assist the OPO in submitting this information, the Offset Project Registry will make a form available for requesting issuance of registry offset credits. This form may be used as a convenient way to submit required information for the issuance of registry offset credits. The form would be submitted with the other information required to be submitted for issuance of registry offset credits. As part of this required information, the OPO will specify which accounts the registry offset credits should be transferred into, and how many should be transferred into each account. Please see the requirements in section 95974 regarding the designation of ownership rights for registry offset credits.

Step 2: Notice of Determination of Issuance – Within 15 calendar days of issuing the registry offset credits, the Offset Project Registry will notify the OPO, APD, or any other approved third party of the issuance.

Step 3: Serialization – The Offset Project Registry will create a unique serial number to identify the registry offset credits in its system. This step may also occur simultaneously with Step 1.

Step 4: Change of Listing Status – After registry offset credits have been issued, ARB and the Offset Project Registry will change the listing status to “Active Registry Project” or “Active Registry Renewal” depending on the crediting period. This step will only be taken by the Offset Project Registry and ARB in the first year of each crediting period.

NOTE: Registry offset credits cannot be used for compliance in the California Cap-and-Trade Program.

Offset Project Registries may decide to restrict or disallow trading of registry offset credits while awaiting issuance of ARB offset credits for that Reporting Period. Such rules would be set up by the Offset Project Registry and should be made apparent to OPOs or APDs at the time of offset project listing. If the Offset Project Registry does not institute such restrictions, they should make clear what the rules about trading of

registry offset credits are between their issuance and the issuance of ARB offset credits, and how retirement of the registry offset credits will affect those parties that hold registry offset credits at the time of retirement and subsequent issuance of ARB offset credits.

6.10.2. *What Are the Requirements and Process for ARB Offset Credit Issuance?*

The Regulation establishes requirements that must be met for ARB offset credits to be issued. For the most part, the requirements for ARB offset credits and registry offset credits are the same. However, OPOs, APDs, and ARB must ensure that a few additional requirements are met before ARB offset credits may be issued. The following describes the requirements for ARB offset credit issuance. All ARB offset credits represent one metric ton of CO₂e and must result from a direct emission reduction or GHG removal enhancement.

Requirements for ARB Offset Credit Issuance (Section 95981)

The following criteria must be met before ARB will issue ARB offset credits:

- The OPO or APD has listed the offset project with an Offset Project Registry
- The OPO or APD has been issued a Positive Offset Verification Statement or a Qualified Positive Offset Verification Statement, if applicable for the offset project type, by an ARB-accredited verification body for the Offset Project Data Report
- All deadlines for specific actions have been met, as stipulated in the Regulation
- ARB has received the following information from the OPO or APD:
 - OPO or APD attestations for Regulatory Compliance, Voluntary Participation, and Implementation Compliance (sections 95975(c)(1) - 95975(c)(3))
 - OPO or APD attestations listed in sections 95981(d)(1) through (5)
 - Offset project listing information submitted to the Offset Project Registry
 - Offset Project Data Reports submitted to the Offset Project Registry
- ARB has received the following related to offset verification:
 - The Positive or Qualified Positive Offset Verification Statement for the Offset Project Data Report the OPO or APD is seeking issuance of ARB offset credits
 - An attestation made by the offset verification body that the Offset Project Data Report and verification meet the requirements of the Regulation (section 95977.1(b)(3)(R)(4.)(b.))

- Attestations made by the lead verifier regarding offset verification services and the Offset Verification Statement (sections 95977.1(b)(3)(R)(4.)(e.) and 95977.1(b)(3)(R)(4.)(f.), respectively)
- Any additional attestations that may be required in the applicable COP

ARB will review the information provided and has 45 calendar days from receiving all the required information from the OPO/ADP to determine if the above criteria have been met. ARB will also determine whether the Positive or Qualified Positive Offset Verification Statement meets the requirements of sections 95977, 95977.1, and 95977.2. If ARB finds at any time that a high level of conflict of interest exists, or an Offset Project Data Report fails an audit, ARB may set aside the Positive or Qualified Positive Offset Verification Statement and require that the OPO or APD obtain a new verification of the affected reports by a different verification body within 90 calendar days.

Timing and Duration of Initial and Renewed Crediting Periods – The timing and duration of initial and renewed crediting periods will be established as described under Section 6.10.1 of this document, which discusses registry offset credits. ARB is not directly accepting any offset projects at the beginning of the program; therefore, all offset projects must go through an Offset Project Registry. The timing and duration of initial and renewed crediting periods will be established based on sections 95980(c) and (d) of the Regulation and as described earlier in this section.

Process for ARB Offset Credit Issuance (Section 95981.1)

Step 1: Determination of Issuance – The OPO must provide information for ARB offset credit issuance. To assist the OPO in submitting the required information, ARB and the Offset Project Registry will make a form available for requesting issuance of ARB offset credits. This form can be used as a convenient way to submit required information for the issuance of ARB offset credits. As part of this required information, the OPO will specify which accounts the ARB offset credits should be transferred into, and how many should be transferred into each account. Please see the requirements in section 95974 regarding the designation of ownership rights for ARB offset credits.

If ARB determines that the requirements for issuance of ARB offset credits have been met, it will request removal or cancellation of the corresponding registry offset credits from the Offset Project Registry.

Step 2: Registry Offset Credit Retirement – If ARB finds that all regulatory requirements have been met, ARB will notify the Offset Project Registry of ARB's intention to issue ARB offset credits. The Offset Project Registry must remove or cancel the corresponding registry offset credits in its system within 10 days of ARB's notification.

Step 3: ARB Issuance: Once ARB has received confirmation of removal or cancellation from the Offset Project Registry, ARB will issue offset credits within 15 calendar days. ARB offset credits will be issued to the OPO, APD, or any other approved third party that is authorized by the OPO to receive ARB offset credits.

Step 4: Notice of Determination of Issuance – Within 15 calendar days of issuing the ARB offset credits, ARB will notify the OPO, APD, or any other approved third party of the issuance.

Step 5: Serialization and Registration – ARB will create a unique serial number to identify the ARB offset credits in CITSS. This step will occur after ARB has been notified by the Offset Project Registry that the original registry offset credits have been retired.

Step 6: Change of Listing Status – After ARB offset credits have been issued, ARB and the Offset Project Registry will change the listing status to “Active ARB Project” or “Active ARB Renewal,” depending on the crediting period. This step will only be taken by the Offset Project Registry and ARB in the first year of each crediting period.

Step 7: Transfer of ARB Offset Credits – ARB will transfer the ARB offset credits within 15 working days of the Notice of Determination of Issuance (Step 4) to the correct Holding Accounts of the OPO, APD, and/or any other approved third party (section 95982).

In the event ARB denies issuance of ARB offset credits after registry offset credits have been issued, an Offset Project Registry should have clear rules in place for such a process and make transparent the disposition of any registry offset credits prior to the beginning of the applicable Reporting Period.

Dispute Resolution Process for ARB Offset Credit Issuance

Pursuant to section 95981.1(d), if ARB cannot make an initial determination that ARB offset credits should be issued, it will request additional information from OPOs, APDs, offset verifiers, and Offset Project Registries. If after reviewing the additional information, ARB determines that ARB offset credits should be issued, it will issue ARB offset credits. The following describes the process if the information submitted is incomplete or not sufficient for issuance of ARB offset credits.

- If ARB determines that the information submitted by the OPO or APD is incomplete, it will notify the OPO or APD within 15 calendar days.
- If ARB determines that all or any of the information submitted does not meet the requirements for issuance, it may deny issuance of ARB offset credits.
- The OPO or APD has 10 days to petition ARB for another review of the complete package of information submitted by the OPO or APD, and to respond to any issues that may prevent ARB from issuing ARB offset credits.

- ARB may again request additional information from the OPO, APD, offset verifier, and Offset Project Registry. If the additional information is sufficient, ARB will issue ARB offset credits. If the information is not sufficient to warrant issuance, ARB will make a final determination to deny issuance of ARB offset credits. This determination is final.

6.10.3. *Who Owns ARB Offset Credits, and How Are They Traded?*

When issued, ARB offset credits will be transferred to the OPO, APD, or any other approved third party that is authorized by the OPO to receive ARB offset credits. The designation of which accounts the ARB offset credits will be transferred into will be submitted with the submittal of all other information required to be provided for issuance. In order to assist the OPO in submitting the required information, ARB and the Offset Project Registry will make a form available for requesting issuance of ARB offset credits. This form can be used as a convenient way to submit required information for the issuance of ARB offset credits. As part of this required information, the OPO should specify which accounts the ARB offset credits should be transferred into, and how many should be transferred into each account.

An ARB offset credit may be sold, traded, or transferred as long as it has not been retired, surrendered for compliance, or used to meet any GHG mitigation requirements in any voluntary or regulatory program. In addition, ARB offset credits that reside in the Forest Buffer Account or have been invalidated by ARB are not allowed to be sold, traded, or transferred.

ARB offset credits may only be used to meet a compliance obligation in the Cap-and-Trade Program, by an entity in a linked program or by a Voluntary Associated Entity for purposes of voluntarily retiring the ARB offset credit within the Cap-and-Trade Program. ARB offset credits may not be used to meet obligations in any other mitigation program.

6.11. What Are the Rules for Invalidation of ARB Offset Credits?

This section describes the requirements of section 95985 of the Regulation regarding invalidation of ARB offset credits. Specifically this section touches on: the statute of limitations; the process for invalidating ARB offset credits, including notification, submittal of additional information, and final determination; what triggers an invalidation; how to determine the number of ARB offset credits that may be invalidated; and requirements for replacing invalid ARB offset credits.

6.11.1. *Statute of Limitations: What is the Time Frame in Which ARB Offset Credits May be Invalidated?*

Provisions in section 95985(b) of the Regulation specify the time frame, or statute of limitations, in which ARB offset credits may be invalidated. The time frame for invalidation is based on the Compliance Offset Protocol that is used, the frequency of offset verification, and the rotation of verification bodies.

For all offset projects, ARB has the ability to invalidate an ARB offset credit within eight years of issuance. This time frame may be shortened, depending on the Compliance Offset Protocol used to develop the offset project and how often the OPO or APD conduct verification and rotate verification bodies. The following describes the conditions under which the invalidation time frame may be shortened to less than eight years:

- *Ozone Depleting Substances Projects:* OPOs or APDs that generate ARB offset credits generated under the Compliance Offset Protocol Ozone Depleting Substances, October 20, 2011, may shorten the invalidation time frame to three years after the date of issuance. To implement the three-year statute of limitation, the Offset Project Data Report for which ARB offset credits were issued must be re-verified by a different offset verification body than the one that did the initial verification within those three years. See Example 6.11.1 below.

Example 6.11.1

This example is for an offset project developed under the ODS Compliance Offset Protocol.

- ARB offset credits are issued in May 2012 (ARBOC₂₀₁₂)
- ARBOC₂₀₁₂ are issued under Offset Project Data Report (OPDR₂₀₁₂)
- OPDR₂₀₁₂ was verified by offset verification body 1 (OVB₁)

If OPDR₂₀₁₂ is re-verified by OVB₂ by May 2015, then ARBOC₂₀₁₂ may only be invalidated through May 2015. If OPDR₂₀₁₂ is re-verified by OVB₂ in May 2013, then ARBOC₂₀₁₂ may still only be invalidated through May 2015.

If OPDR₂₀₁₂ is not re-verified by OVB₂ by May 2015, then ARBOC₂₀₁₂ may be invalidated through May 2020.

- *Forest, Urban Forest, and Livestock Projects:* ARB offset credits generated under the Compliance Offset Protocol U.S. Forest Projects, October 20, 2011, Compliance Offset Protocol Urban Forest Projects, October 20, 2011, and Compliance Offset Protocol Livestock Projects, October 20, 2011, may shorten the invalidation time frame to three years after issuance. To implement the three-year statute of limitation, a subsequent Offset Project Data Report must be verified by a different offset verification body within three years. The Regulation already requires offset verification bodies to be rotated every six years; this shortened process incentivizes the rotation to occur every three years. In the case of forestry offset projects it also means that the forest offset project will need to conduct verification every three years, as opposed to every six years, in order to reduce the statute of limitations from eight years to three years. See Example 6.11.2.

Example 6.11.2

The following example shows a scenario in which the invalidation time frame can be shortened to 3 years for forest, urban forest, and livestock digester projects:

| Issuance year | OPDR year | OVB | Statute of Limitations |
|-----------------------|----------------------|-----|------------------------|
| ARBOC ₂₀₁₂ | OPDR ₂₀₁₂ | V1 | 3 years |
| ARBOC ₂₀₁₃ | OPDR ₂₀₁₃ | V1 | 3 years |
| ARBOC ₂₀₁₄ | OPDR ₂₀₁₄ | V1 | 3 years |
| ARBOC ₂₀₁₅ | OPDR ₂₀₁₅ | V2 | 3 years |
| ARBOC ₂₀₁₆ | OPDR ₂₀₁₆ | V2 | 3 years |
| ARBOC ₂₀₁₇ | OPDR ₂₀₁₇ | V2 | 3 years |
| ARBOC ₂₀₁₈ | OPDR ₂₀₁₈ | V3 | |

The following example shows a scenario in which the invalidation time frame may not be shortened to 3 years for forest, urban forest, and livestock digester projects:

| Issuance year | OPDR year | OVB | Statute of Limitations |
|-----------------------|----------------------|-----|------------------------|
| ARBOC ₂₀₁₂ | OPDR ₂₀₁₂ | V1 | <u>8 years</u> |

| | | | |
|-----------------------|----------------------|-----------|---------|
| ARBOC ₂₀₁₃ | OPDR ₂₀₁₃ | V1 | 3 years |
| ARBOC ₂₀₁₄ | OPDR ₂₀₁₄ | V1 | 3 years |
| ARBOC ₂₀₁₅ | OPDR ₂₀₁₅ | <u>V1</u> | 3 years |
| ARBOC ₂₀₁₆ | OPDR ₂₀₁₆ | V2 | 3 years |
| ARBOC ₂₀₁₇ | OPDR ₂₀₁₇ | V2 | 3 years |
| ARBOC ₂₀₁₈ | OPDR ₂₀₁₈ | V2 | 3 years |
| ARBOC ₂₀₁₉ | OPDR ₂₀₁₉ | V3 | |

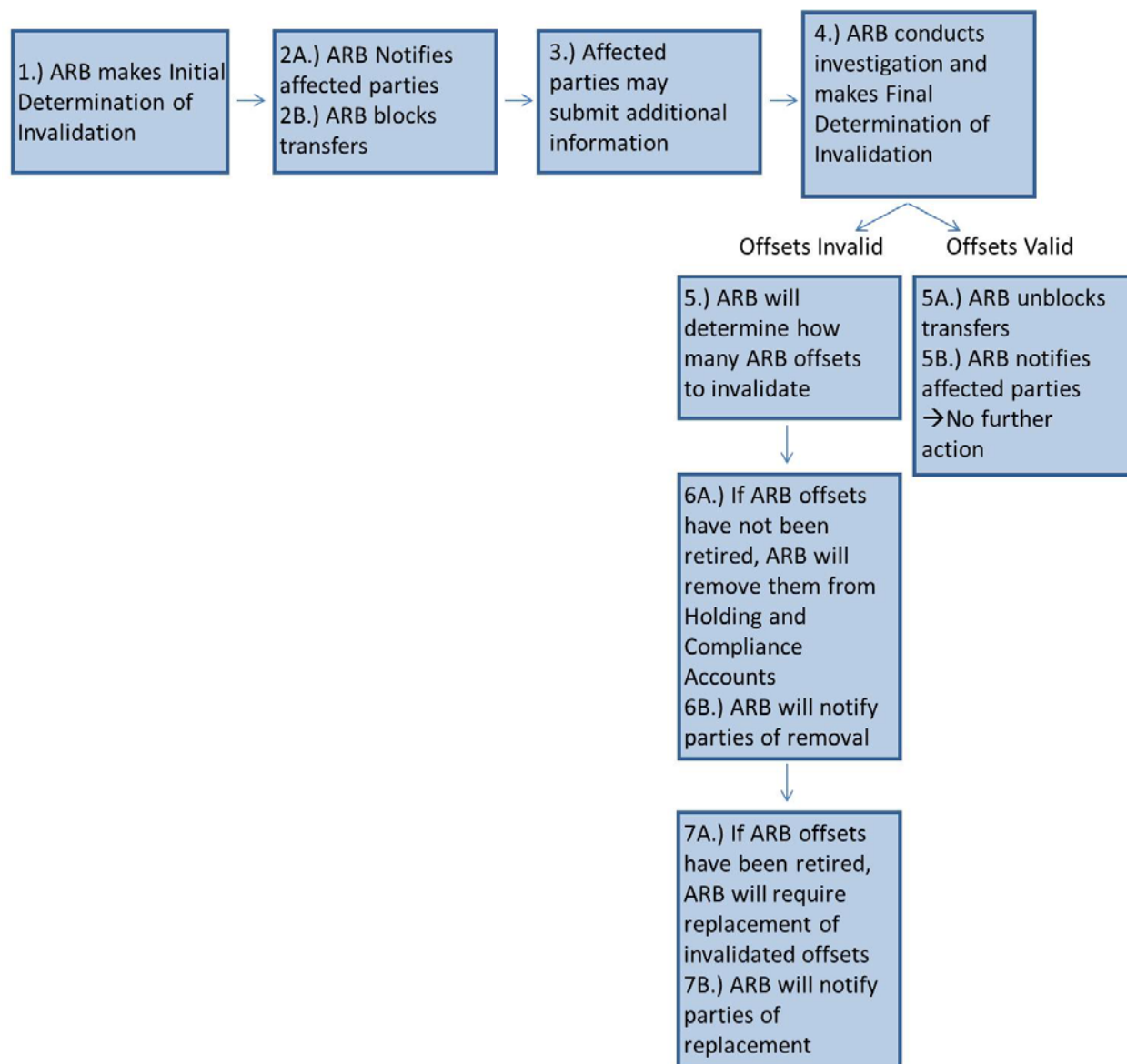
In the above example, the statute of limitations for ARBOC₂₀₁₂ remains at 8 years because at least one of the subsequent three Offset Project Data Reports were not verified by a different offset verification body.

Regardless of whether the statute of limitations is three years or eight years, the time frame for invalidation begins when the ARB offset credit is issued by ARB. For example, for an ODS offset project, if ARB offset credits are issued on January 1, 2013 for an OPDR, and a second verifier issues a Positive or Qualified Positive Offset Verification Statement for that same OPDR by January 1, 2016, then the ARB offset credits may only be invalidated through January 1, 2016—regardless of when the second Positive or Qualified Positive Offset Verification Statement was issued within those years. For example, for a digester, forest, or urban forest offset project, if ARB offset credits were issued by ARB on January 1, 2013 for an OPDR, and a second verifier issues a Positive or Qualified Positive Offset Verification Statement for a subsequent OPDR by January 1, 2016, then the ARB offset credits may only be invalidated through January 1, 2016—regardless of which subsequent OPDR was issued the Positive or Qualified Positive Offset Verification Statement within those years.

In either case above, if an offset project fails to be verified by a second verification body within the three-year time frame, the statute of limitations defaults to eight years, and the ARB offset credits may be invalidated through January 1, 2021. For specific rules on how the statute of limitations relates to ARB offset credits that originated as early action offset credits, please see Section 6.14.

6.11.2. What is the Invalidation Process?

The invalidation process for ARB offset credits includes an initial determination of invalidation, identification of affected parties, suspension of transfers of affected ARB offset credits, a final determination of invalidation including an appeals process, removal of ARB offset credits from all accounts, and replacement of invalidated ARB offset credits. Figure 6.2 below depicts the process for invalidation. Each step in the process is discussed in this section.

Figure 6.2 Invalidation Process

6.11.3. What Can Trigger an Initial Determination of Invalidation?

If ARB finds grounds for possible invalidation it will issue an initial determination of invalidation to the affected parties. This is the first step in the process for invalidation. If ARB makes an initial determination, it does not necessarily mean that ARB offset credits will be invalidated. ARB will include the reason for its initial determination in the notification. There will be a review and an opportunity for affected parties to submit additional information to ARB before a final determination is made to invalidate ARB offset credits. A review may occur if new information that was not available at the time of issuance is discovered and warrants a review of the ARB offset credits that were issued. ARB may investigate any ARB offset credits that have been issued within the statute of limitations, which may be three or eight years, as described in Section 6.11.1.

Section 95985(c) of the Regulation includes the circumstances that may trigger ARB to issue an initial notice of determination and to potentially invalidate ARB offset credits. This section of the Regulation also lists specific instances which will not trigger invalidation. ARB may decide to invalidate ARB offset credits if one of the following scenarios occurs:

- *Overstatement of GHG Reductions or Removal Enhancements:* ARB offset credits may be invalidated if ARB finds that the amount of the GHG reductions or removal enhancements that were issued ARB offset credits were overstated by more than 5 percent than were actually achieved by the offset project within the applicable Reporting Period.
- *Non-Compliance with Laws and Regulations:* ARB offset credits may be invalidated if ARB finds that the offset project's activities were not in accordance with all local, state, and national environmental and health and safety regulations during the applicable Reporting Period.
- *Double Issuance for GHG Reductions or Removal Enhancements:* ARB offset credits may be invalidated if ARB finds that offset credits have been issued for the same GHG reductions or removal enhancements within the same offset project boundary and for the same Reporting Period in which ARB offset credits were issued. Also, if ARB finds that an ARB offset credit has been used more than once, the ARB offset credits may be invalidated.

The Regulation also describes circumstances that would not lead to invalidation. If a Compliance Offset Protocol is updated, ARB offset credits issued under a previous version of the Compliance Offset Protocol will not be invalidated due to changes made to the Compliance Offset Protocol. Also, a reversal in a forest offset project will not trigger invalidation. If a reversal occurs, the requirements in section 95983 regarding forest reversals apply.

How Will ARB Determine the Amount of the Overstatement?

If ARB determines that an overstatement of more than 5 percent occurred, the following process will be initiated to determine the amount of the overstatement:

- *Step 1: ARB Notification* – ARB will notify the verification body that performed the original offset verification, the OPO, and the APD, if applicable, within 10 calendar days of the determination.
- *Step 2: Verification Body Requirements* – The verification body must give ARB any offset verification services information and any correspondence related to the Offset Project Data Report in question, within 25 calendar days of receiving the determination notification.

OPO/APD Requirements – The OPO or APD must give ARB any data needed to calculate GHG reductions or removal enhancements according to the Regulation, the detailed offset verification report that was prepared by the verification body

for the Reporting Period in question, and any other information that ARB may request. The OPO or APD must also make all personnel available that can assist ARB in its determination.

- *Step 3: ARB Determination of Overstatement* – ARB will determine if an overstatement occurred by determining the actual GHG reductions and removal enhancements achieved by the offset project for the applicable Reporting Period.

In making its determination, ARB will evaluate the following: GHG sources, GHG sinks, and GHG reservoirs within the offset project boundary for that Reporting Period; any previous Offset Project Data Reports that were submitted by the OPO or APD; and the Offset Verification Statements rendered for the previous Offset Project Data Reports.

ARB will use the applicable Compliance Offset Protocol and any information reported to ARB for this Reporting Period and past Reporting Periods. In the event of missing data, ARB will rely on the methods in the Regulation for missing data procedures (section 95976), and the Compliance Offset Protocol, if applicable.

After determining the number of GHG reductions and removal enhancements that actually occurred for the Reporting Period, ARB will determine the amount of ARB offset credits that correspond to the overstatement by using the equation in section 95985(c)(1)(B) of the Regulation. Please see Example 6.11.3 for an example of how ARB will determine the overstated GHG reductions and removal enhancements.

Example 6.11.3

The equation to determine the amount of ARB offset credits that corresponds to the overstatement is as follows:

$$\begin{aligned} \text{If: } I_{ARBOC} &> R_{OPDR} \times 1.05 \\ \text{Then: } O_R &= I_{ARBOC} - R_{OPDR} \end{aligned}$$

Where:

“ I_{ARBOC} ” is the number of ARB offset credits issued under the applicable Offset Project Data Report;

“ R_{OPDR} ” is the number of GHG reductions and GHG removal enhancements determined by ARB to have actually occurred for the applicable Offset Project Data Report; and

“ O_R ” is the amount of overstated GHG reductions and GHG removal enhancements for the applicable Offset Project Data Report, rounded to the nearest whole ton.

If the number of ARB offset credits originally issued (I_{ARBOC}) is 25,000, and the number of actual GHG reductions and removals found by ARB to have occurred (R_{OPDR}) is 23,500 metric tons of CO₂e, then ***the amount of the overstatement (O_R) is 1,500 metric tons of CO₂e.***

$$\text{If: } 25,000 > 23,500 \times 1.05$$

$$\text{Then: } 1,500 = 25,000 - 23,500$$

6.11.4. Suspension of Transfers

Once ARB makes an initial determination of invalidation pursuant to section 95985(d) of the Regulation, all transfers of the ARB offset credits issued under the applicable Offset Project Data Report will be suspended. When this occurs the ARB offset credits will be flagged in the CITSS, and ARB will not allow any of those ARB offset credits to be sold, traded, transferred, or retired within the system. Once ARB makes a final determination as to whether the ARB offset credits are invalid, the suspension will be cancelled. If the ARB offset credits are found to be valid, they may once again be sold, traded, transferred, or retired. If the ARB offset credits are found to be invalid, ARB will remove them from any Holding or Compliance Account, as discussed later in this section. There will be no time gap that would allow an invalid ARB offset credit to be traded or sold within the CITSS before the ARB offset credits are removed from any Holding or Compliance Account.

6.11.5. Identification of Affected Parties

Once ARB makes an initial determination of invalidation, ARB will notify specific parties of the determination. These parties are identified in section 95985(e) of the Regulation, and for purposes of this guidance document will be referred to as “affected parties.”

These affected parties include:

- The current holders of any of the ARB offset credits under investigation in a Holding or Compliance Account;
- The entities for which ARB transferred any of the ARB offset credits under investigation into the Retirement Account; and
- The OPO, APD, and, for forest offset projects, the Forest Owners.

These parties may need to submit additional information to ARB, or replace ARB offset credits that are found to be invalid with valid ARB offset credits or other approved compliance instruments.

6.11.6. Final Determination of Invalidation

After ARB notifies the affected parties of the initial determination of invalidation, it will provide each party an opportunity to submit additional information before making a final determination of invalidation (see section 95985(f) of the Regulation). After being notified of an initial determination of invalidation, the affected parties will have 25 calendar days to submit any additional information to ARB, and ARB may also request additional information from the parties within that time.

Within 30 calendar days of receiving all information, the Executive Officer will make a final determination as to whether an invalidation is warranted based on all information submitted to ARB. All affected parties and linked programs will be notified of ARB's final determination.

If a final determination is made and ARB offset credits are found to be invalid, ARB will make information related to the invalidated ARB offset credits available on its website.

6.11.7. How Will Invalid ARB Offset Credits Be Removed from the System?

Section 95985(g) details the removal of ARB offset credits from Holding and Compliance Accounts if they are found to be invalid. ARB offset credits are only removed from Holding and Compliance Accounts if they have not yet been retired. If the Executive Officer makes a final determination to invalidate ARB offset credits pursuant to section 95985(f), they will be removed from any Holding or Compliance Account if they have not yet been retired. Section 6.11.8 of this guidance document discusses the requirements for ARB offset credits that have already been retired.

The Regulation does not require replacement of ARB offset credits that reside in Holding and Compliance Accounts; it only requires removal of the ARB offset credits from the accounts. However, if ARB withdraws ARB offset credits from a Compliance

Account, the covered entity may need to replace it with another approved compliance instrument, as the rules for compliance for covered entities still apply. Under the invalidation rules, only retired ARB offset credits that are later invalidated must be replaced to ensure the integrity of the system. All affected parties and any linked program will be notified of which offsets were removed from any Holding or Compliance Account. The serial numbers of the invalid offsets will also be posted on ARB's website.

How many ARB offset credits will be removed from Holding and Compliance Accounts?

The number of ARB offset credits removed from each Holding or Compliance Account will depend on the reason for the invalidation. See section 95985(g).

Non-Compliance With Laws and Regulations – If an ARB offset credit is invalidated due to non-compliance with laws and regulations, all ARB offset credits issued under the applicable Offset Project Data Report will be removed from any Holding or Compliance Account of the affected parties.

Double Issuance of GHG Reductions or Removal Enhancements – If an ARB offset credit is invalidated due to the issuance of GHG reductions or removal enhancements in another program, all ARB offset credits issued under the applicable Offset Project Data Report will be removed from any Holding or Compliance Account of the affected parties.

Overstatement of GHG Reductions or Removal Enhancements – If an ARB offset credit is invalidated due to an overstatement of GHG reductions or removal enhancements, ARB will determine which subset of ARB offset credits will be removed based on the equation in section 95985(g)(1) of the Regulation.

- ARB will determine the number of ARB offset credits that must be removed from each of the affected parties' Holding and Compliance Accounts. This amount will be based on the percentage of invalid ARB offset credits that each affected party holds. Please see Example 6.11.4 on the following page for an example of how many ARB offset credits would be removed from the affected parties' accounts.
- After determining the amount of ARB offset credits to remove, ARB will determine the lowest serial numbers, or those with the earliest vintages, issued under the applicable Offset Project Data Report and remove them from any Holding or Compliance Accounts of the affected parties.

Example 6.11.4

The following equation will be used to determine how many ARB offset credits will be removed from each affected parties' Holding or Compliance Accounts if an overstatement of GHG reductions or removal enhancements is the reason for invalidation:

$$H_{ARBOC} = \left\lfloor \frac{TOT_{Holding}}{I_{ARBOC}} \right\rfloor O_R$$

Where:

" H_{ARBOC} " is the total number of ARB offset credits, rounded to the nearest whole ton, that will be removed from the Holding and/or Compliance Account of each affected party;

" $TOT_{Holding}$ " is the total number of ARB offset credits currently being held in a Compliance and/or Holding Account by each affected party for the applicable Offset Project Data Report;

" I_{ARBOC} " is the number of ARB offset credits issued under the applicable Offset Project Data Report; and

" O_R " is the amount of overstated GHG reductions and GHG removal enhancements for the applicable Offset Project Data Report calculated by ARB.

Example 1:

Affected Party A holds 500 ARB offset credits ($TOT_{Holding}$) from the affected Offset Project Data Report

Referring back to Example 6.11.3:

I_{ARBOC} is 25,000 ARB offset credits

O_R is 1,500 metric tons of CO₂e

$$H_{ARBOC} = \left\lfloor \frac{500}{25000} \right\rfloor 1500 = 30$$

Therefore, Affected Party A will have 30 ARB offset credits removed from its Holding or Compliance Accounts, starting with the lowest serial number in either account.

Example 2:

Affected Party B holds 1500 ARB offset credits ($TOT_{Holding}$) from the

affected Offset Project Data Report

Referring back to Example 6.11.3:

I_{ARBOC} is 25,000 ARB offset credits

O_R is 1,500 metric tons of CO₂e

$$H_{ARBOC} = \left\lfloor \frac{1500}{25000} \right\rfloor 1500 = 90$$

Therefore, Affected Party B will have 90 ARB offset credits removed from its Holding or Compliance Accounts, starting with the lowest serial number in either account.

6.11.8. Requirements for Replacement of Invalid ARB Offset Credits

Sections 95985(h) and (i) of the Regulation describe the requirements for replacing invalid ARB offset credits. Only ARB offset credits that have been retired and later found to be invalid must be replaced under the invalidation provisions. If the ARB offset credits have not yet been retired, they will be removed from Holding and Compliance accounts, and the provisions in section 95985(g) apply. Covered entities may need to place additional compliance instruments in its Compliance Account, if ARB withdraws invalid ARB offset credits, to ensure compliance with their emission obligations. The provisions for replacing invalid ARB offset credits that have been retired are divided into two sections dealing with replacement of ARB offset credits for non-sequestration offset projects (section 95985(h)) and forest offset projects (section 95985(i)).

Which Invalid ARB Offset Credits Must Be Replaced?

Not all invalid ARB offset credits must be replaced. Only those ARB offset credits that have been placed into the Retirement Account (i.e., retired for use in compliance) must be replaced under these provisions. ARB offset credits that are being held in Holding and Compliance Accounts do not need to be replaced; however, they will be removed from any accounts, as discussed in Section 6.11.7 above.

What Are the Replacement Requirements for Non-Sequestration Offset Projects?

The provisions in section 95985(h) describe the replacement requirements for non-sequestration offset projects.

Who Must Replace Invalid ARB Offset Credits for Non-Sequestration Offset Projects?

The Regulation requires that the party which requested transfer of ARB offset credits into the Retirement Account replace the invalid ARB offset credits with valid ARB offset credits or other approved compliance instruments. For purposes of this guidance document, these parties, identified in section 95985(e)(2) of the Regulation, will be referred to as “replacement parties.”

How Many Invalid ARB Offset Credits Must Be Replaced for Non-Sequestration Offset Projects?

The amount of invalid ARB offset credits that must be replaced for non-sequestration offset projects depends on the reason for invalidation.

Non-Compliance With Laws and Regulations – If an ARB offset credit is invalidated due to non-compliance with laws and regulations, all ARB offset credits issued under the applicable Offset Project Data Report must be replaced. For an individual replacement party this means that they must replace every invalid ARB offset credit under the applicable Offset Project Data Report for which they requested transfer of ARB offset credits into the Retirement Account.

Double Issuance of GHG Reductions or Removal Enhancements – If an ARB offset credit is invalidated due to the issuance of GHG reductions or removal enhancements in another program, all ARB offset credits issued under the applicable Offset Project Data Report must be replaced. For an individual replacement party this means that they must replace every invalid ARB offset credit under the applicable Offset Project Data Report for which they requested transfer of ARB offset credits into the Retirement Account.

Overstatement of GHG Reductions or Removal Enhancements – If an ARB offset credit is invalidated due to an overstatement of GHG reductions or removal enhancements, ARB will determine which subset of ARB offset credits must be replaced by each of the replacement parties based on an equation that is in section 95985(h)(1)(A) of the Regulation. Please see Example 6.11.5 on the following page for the equation used to determine the number of invalid ARB offset credits each replacement party must provide.

Example 6.11.5

The following equation will be used to determine how many ARB offset credits must be replaced by each replacement party if an overstatement of GHG reductions or removal enhancements is the reason for invalidation:

$$R_{ARBOC} = \left\lceil \frac{TOT_{Retired}}{I_{ARBOC}} \right\rceil O_R$$

Where:

“ R_{ARBOC} ” is the calculated total number of retired ARB offset credits for the applicable Offset Project Data Report, rounded to the nearest whole ton, that must be replaced by each replacement party;

“ $TOT_{Retired}$ ” is the total number of ARB offset credits for which ARB transferred the ARB offset credits from the applicable Offset Project Data Report into the Retirement Account for the individual replacement party;

“ I_{ARBOC} ” is the number of ARB offset credits issued under the applicable Offset Project Data Report; and

“ O_R ” is the amount of overstated GHG reductions and GHG removal enhancements calculated by ARB to have actually occurred, rounded to the nearest whole ton.

Example 1:

Replacement Party A requested that 1,000 ARB offset credits be transferred into the Retirement Account from the applicable Offset Project Data Report ($TOT_{Retired}$).

Referring back to Example 6.11.3:

I_{ARBOC} is 25,000 ARB offset credits

O_R is 1,500 metric tons of CO₂e

$$R_{ARBOC} = \left\lceil \frac{1000}{25000} \right\rceil 1500 = 60$$

Therefore, Replacement Party A must replace 60 ARB offset credits to ARB.

Example 2:

Replacement Party B requested that 2,000 ARB offset credits be transferred into the Retirement Account from the applicable Offset Project Data Report ($TOT_{Retired}$).

Referring back to Example 6.11.3:

I_{ARBOC} is 25,000 ARB offset credits

O_R is 1,500 metric tons of CO_2e

$$R_{ARBOC} = \left\lfloor \frac{2000}{25000} \right\rfloor 1500 = 120$$

Therefore, Replacement Party A must replace 120 ARB offset credits to ARB.

What Is the Timing for Replacement of ARB Offset Credits for Non-Sequestration Offset Projects?

Replacement parties must submit valid ARB offset credits or other approved compliance instruments in the amount required to cover the invalidation within six months of being notified by ARB of its final determination to invalidate. If the replacement party does not submit valid compliance instruments to cover the invalidation within six months, each unreplaced invalid ARB offset credit will constitute a violation for that replacement party pursuant to section 96014 of the Regulation.

As specified in sections 95985(h)(2)(B)(1.) through (3.), if the replacement party is no longer in business, ARB will require the OPO to replace each invalid ARB offset credit after notifying them of this requirement. If the OPO does not replace each ARB offset credit with a valid compliance instrument within that six-month period, each unreplaced invalid ARB offset credit will constitute a violation for that OPO pursuant to section 96014.

Depending on the reason for invalidation, the number of ARB offset credits that must be replaced will vary. If the invalidation is due to an overstatement ARB will establish the proportion of ARB offset credits that each party must replace (see example 6.11.5) and from that proportion determine the lowest serial numbers to be invalidated. This proportion must be replaced. If the invalidation is due to non-compliance or double issuance, all ARB offset credits that the party requested transfer of to the Retirement Account for the applicable Offset Project Data Report must be replaced by the party. All affected parties and linked programs will be notified as to which serial numbers were invalidated.

What Are the Replacement Requirements for Forest Offset Projects?

The provisions in section 95985(i) describe the replacement requirements for forest offset projects.

Who Must Replace Invalid ARB Offset Credits for Forest Offset Projects?

The Regulation requires that the forest owners replace the invalid ARB offset credits for forest offset projects.

How Many Invalid ARB Offset Credits Must Be Replaced for Forest Offset Projects?

The amount of invalid ARB offset credits that must be replaced for forest offset projects depends on the reason for invalidation.

Non-Compliance with Laws and Regulations – If an ARB offset credit is invalidated due to non-compliance with laws and regulations, all ARB offset credits issued under the applicable Offset Project Data Report must be replaced. For a forest owner, this means that they must replace every invalid ARB offset credit under the applicable Offset Project Data Report.

Double Issuance of GHG Reductions or Removal Enhancements – If an ARB offset credit is invalidated due to the issuance of GHG reductions or removal enhancements in another program, all ARB offset credits issued under the applicable Offset Project Data Report must be replaced. For a forest owner this means that they must replace every invalid ARB offset credit under the applicable Offset Project Data Report.

Overstatement of GHG Reductions or Removal Enhancements – If an ARB offset credit is invalidated due to an overstatement of GHG reductions or removal enhancements, ARB will determine which subset of ARB offset credits must be replaced by the forest owner based on an equation that is in section 95985(i)(1)(A) of the Regulation. Please see Example 6.11.6 on the following page for the equation used to determine the number of invalid ARB offset credits the forest owner must replace.

Example 6.11.6

The following equation will be used to determine how many ARB offset credits must be replaced by the forest owner if an overstatement of GHG reductions or removal enhancements is the reason for invalidation:

$$RF_{ARBOC} = \left\lfloor \frac{TF_{Retired}}{IF_{ARBOC}} \right\rfloor OF_R$$

Where:

“ RF_{ARBOC} ” is the total number of retired ARB offset credits for the applicable forest offset project’s Offset Project Data Report, rounded to the nearest whole ton, that must be replaced by the Forest Owner;

“ $TF_{Retired}$ ” is the total number of ARB offset credits issued for the applicable forest offset project’s Offset Project Data Report for which ARB transferred any ARB offset credits from into the Retirement Account;

“ IF_{ARBOC} ” is the number of ARB offset credits issued under the applicable Offset Project Data Report for the forest offset project; and

“ OF_R ” is the amount of overstated GHG reductions and GHG removal enhancements calculated by ARB for the forest offset project for the applicable Offset Project Data Report.

Example 1:

5,000 ARB offset credits have been transferred into the Retirement Account from the applicable Offset Project Data Report ($TF_{Retired}$) from Forest Owner A’s forest offset project.

Referring back to Example 6.11.3:

IF_{ARBOC} is 25,000 ARB offset credits

OF_R is 1,500 metric tons of CO₂e

$$RF_{ARBOC} = \left\lfloor \frac{5000}{25000} \right\rfloor 1500 = 300$$

Therefore, Forest Owner A must replace 300 ARB offset credits to ARB.

Example 2:

10,000 ARB offset credits have been transferred into the Retirement Account from the applicable Offset Project Data Report ($TF_{Retired}$) from Forest Owner B’s forest offset project.

Referring back to Example 6.11.3:

IF_{ARBOC} is 25,000 ARB offset credits

OF_R is 1,500 metric tons of CO_2e

$$RF_{ARBOC} = \left\lfloor \frac{10000}{25000} \right\rfloor 1500 = 600$$

Therefore, Forest Owner B must replace 600 ARB offset credits to ARB.

What Is the Timing for Replacement of ARB Offset Credits for Forest Offset Projects?

Forest owners must submit valid ARB offset credits or other approved compliance instruments in the amount required to cover the invalidation within six months of being notified by ARB of its final determination to invalidate. If the forest owner does not submit valid compliance instruments to cover the invalidation within six months, each nonreplaced invalid ARB offset credit will constitute a violation for the forest owner, pursuant to section 96014.

Depending on the reason for invalidation, the number of ARB offset credits that must be replaced will vary. If the invalidation is due to an overstatement ARB will establish the proportion of ARB offset credits that corresponds to the overstatement (see example 6.11.6) and the forest owner must replace that proportion. ARB will determine the lowest serial numbers in the amount that corresponds to the proportion. If the invalidation is due to non-compliance or double issuance, all ARB offset credits issued under the applicable Offset Project Data Report must be replaced by the forest owner. All affected parties and linked programs will be notified as to which serial numbers were invalidated.

6.12. How Does the Regulation Ensure Permanence for Forest Offset Projects?

This section describes the requirements for contributing to the Forest Buffer Account and what requirements need to be met if a reversal occurs in a forest offset project. Provisions regarding forest reversals can be found in section 95983 of the Regulation.

Key Definitions

“Forest Buffer Account” means a holding account for ARB offset credits issued to forest offset projects. It is used as a general insurance mechanism against unintentional reversals, for all forest offset projects listed under a Compliance Offset Protocol.

“Intentional Reversal” means any reversal caused by a forest owner's negligence, gross negligence, or willful intent, including harvesting, development, and harm to the area within the offset project boundary.

“Standing Live Carbon Stocks” means the above ground carbon in live tree biomass. Live trees include the bole, stem, branches, roots, and leaves or needles.

“Unintentional Reversal” means any reversal, including wildfires or disease, that is not the result of the forest owner's negligence, gross negligence, or willful intent.

6.12.1. How Is the Contribution to the Forest Buffer Account Determined?

The Cap-and-Trade Regulation establishes a permanence mechanism called the *Forest Buffer Account* to address the risk of reversal. This mechanism provides insurance in the case of a reversal to ensure permanence. All forest offset projects developed under the Compliance Offset Protocol U.S. Forest Projects, October 20, 2011 must contribute a portion of ARB offset credits to the Forest Buffer Account each time they are issued. The amount of ARB offset credits that must be contributed to the Forest Buffer Account is calculated based on parameters established in the Compliance Offset Protocol U.S. Forest Projects, October 20, 2011.

Transfer of ARB Offset Credits to the Forest Buffer Account

Once registered in the CITSS, ARB will transfer the calculated portion of ARB offset credits into the Forest Buffer Account, and these will not be released to the OPO or APD.

6.12.2. What Are the Requirements if a Reversal Occurs?

The Regulation distinguishes between intentional and unintentional reversals, and in some cases early project terminations, which are also a type of intentional reversal. The requirements for compensating for reversals differ depending on the nature and cause of the reversal.

Unintentional Reversals

If an unintentional reversal occurs, the OPO or APD must notify ARB and the Offset Project Registry and perform a verified estimate of current carbon stock. The system must be compensated for the loss, as described below:

Step 1: Notification of Unintentional Reversal – The OPO or APD is required to notify ARB and the Offset Project Registry in writing within 30 calendar days of discovering the unintentional reversal. The written notice must include an explanation for the nature of the unintentional reversal.

Step 2: Verification – Within one year of the discovery of the unintentional reversal, the OPO or APD is required to provide to ARB and the Offset Project Registry, in writing, a verified estimate of current carbon stocks within the offset project boundary.

Step 3: Replacement – If offset credits have been issued and ARB determines that an unintentional reversal has occurred, ARB will retire ARB offset credits from the Forest Buffer Account in the amount of the reversal. In this case, there are no additional requirements for the OPO or APD.

Intentional Reversals, Including Specific Requirements for Early Project Termination

If an intentional reversal or early project termination occurs, the OPO or APD is required to notify ARB and the Offset Project Registry and perform a verified estimate of current carbon stocks. The system must be compensated for the loss as described below:

Step 1: Notification of Intentional Reversal – The OPO or APD is required to notify ARB and the Offset Project Registry, in writing within 30 calendar days of the occurrence, of the intentional reversal or early project termination. The written notice must include a description and explanation of the intentional reversal or early project termination.

Step 2: Verification – Within one year of the occurrence of the intentional reversal or early project termination, the OPO or APD is required to provide to ARB and the Offset Project Registry, in writing, a verified estimate of current carbon stocks within the offset project boundary.

Step 3: Notification by ARB – ARB will notify the OPO, which is the designated forest owner, or the APD, of the replacement requirements after it receives the verified estimate of carbon stocks. If the OPO or APD fails to submit a verified estimate of carbon stocks, ARB will consider the notification date to be one year after the occurrence of the intentional reversal or early project termination.

Step 4: Replacement

- *Intentional Reversals:* If offset credits have been issued and an intentional reversal has occurred, the forest owner must replace the ARB offset credits by placing submitting compliance instruments in the

amount of the reversed tons to ARB for placement in the Retirement Account. The forest owner must submit the correct number of valid compliance instruments to ARB within six months of notification by ARB.

If the forest owner does not submit the correct number of valid compliance instruments to ARB for placement into the Retirement Account within six months of notification by ARB, the forest owner will be subject to enforcement action by ARB. To make the system whole, ARB will retire an ARB offset credit from the Forest Buffer Account for each valid compliance instrument the forest owner fails to submit after the six-month period. Each ARB offset credit that must be retired from the Forest Buffer Account will constitute a separate violation to the forest owner.

- *Early Project Terminations:* If offset credits have been issued and there is an early project termination, ARB will retire ARB offset credits from the Forest Buffer Account in the amount calculated under the project termination provisions in the Compliance Offset Protocol U.S. Forest Projects, October 20, 2011. ARB will notify the forest owner within 10 calendar days that ARB offset credits were retired from the Forest Buffer Account.

The forest owner must submit to ARB the same number of valid ARB offset credits or other compliance instruments that were retired from the Forest Buffer Account by submitting valid compliance instruments to ARB for placement in the Retirement Account. The forest owner must submit the correct number of valid compliance instruments to ARB within six months of ARB's retirement from the Forest Buffer Account.

If the forest owner does not submit the correct number of valid compliance instruments to ARB within six months of ARB's retirement, the forest owner will be subject to enforcement action by ARB. Each ARB offset credit that was not submitted to ARB for placement into the Retirement Account will constitute a separate violation to the forest owner.

6.12.3. *What Is the Disposition of Forest Offset Projects after a Reversal?*

OPOs or APDs of forest offset projects for which a reversal occurs will need to assess the actual standing live carbon stocks within the offset project boundary. The disposition of the forest offset project depends on the type of reversal that occurred and the level of actual standing live carbon stocks.

Disposition After an Unintentional Reversal

If, after an unintentional reversal, the actual live standing carbon stock levels are greater than the approved project baseline levels, the forest offset project may continue without termination as long as the reversed tons are compensated for out of the Forest Buffer Account. ARB offset credits must continue to be contributed to the Forest Buffer Account, as specified in the Compliance Offset Protocol U.S. Forest Projects, October 20, 2011.

If the unintentional reversal lowers the actual standing live carbon stocks below the standing live carbon stocks reflected in the project baseline, the forest offset project will be terminated.

If a forest offset project is terminated due to an unintentional reversal, ARB will retire ARB offset credits, and any early action offset credits, if applicable, from the Forest Buffer Account to cover the loss of any offset credits issued to the project over the preceding 100 years.

Another forest offset project may be initiated and submitted for listing to an Offset Project Registry within the same offset project boundary.

Disposition after an Intentional Reversal or Early Project Termination

If the intentional reversal lowers the actual standing live carbon stocks below the standing live carbon stocks reflected in the project baseline, the forest offset project will be terminated.

No new forest offset projects are allowed to be initiated or listed within the same offset project boundary, unless the Compliance Offset Protocol U.S. Forest Projects, October 20, 2011, specifies otherwise.

Overview of Forest Project Reversal Requirements

Table 6.3 on the following page shows the requirements in the event of a reversal. It distinguishes between unintentional and intentional reversals and early project terminations. These requirements can also be found in section 95983 of the Regulation.

Table 6.3 Overview of Forest Project Reversal Requirements

| Forest Project Reversal Requirements | | | |
|--|--|---|---|
| | Unintentional Reversals | Intentional Reversals | Early Project Termination |
| Reversal Notification Requirements for OPO/APD | Notify ARB and OPR in writing and provide an explanation. | Notify ARB and OPR in writing and provide a description and explanation. | Same as Intentional Reversal |
| Notification Timing | Within 30 calendar days of discovery | Within 30 calendar days of occurrence | Same as Intentional Reversal |
| Verification Requirements for OPO/APD | Submit to ARB and OPR a verified estimate of current carbon stocks within the offset project boundary. | Submit to ARB and OPR a verified estimate of current carbon stocks within the offset project boundary. | Same as Intentional Reversal |
| Verification Timing | Within one year of discovery | Within one year of occurrence | Same as Intentional Reversal |
| Replacement Requirements if ARB Offset Credits Have Been Issued | ARB will retire from the Forest Buffer Account in the amount of tons reversed. | Forest Owner must replace ARB offset credits with other valid compliance instruments. | 1. ARB will retire from the Forest Buffer Account in the amount of tons reversed. 2. Forest Owner must replace ARB offset credits with other valid compliance instruments. |
| Replacement Timing Requirements | N/A | Within six months of notification by ARB ^{4,5} | Within six months of ARB's retirement ⁵ |
| Disposition of Forest Projects if Actual Live Carbon Stocks Fall Below Project Baseline Standing Live Carbon Stocks | 1. Project will be terminated by ARB or OPR. 2. ARB will retire appropriate number of ARB offset credits from Forest Buffer Account. 3. Another project may be initiated within the offset project boundary. | 1. Project will be terminated by ARB or OPR. 2. Another project may not be initiated within the offset project boundary. | 1. Project will be terminated by ARB or OPR. 2. Another project may not be initiated within the offset project boundary. |

⁴ Notification by ARB will occur after the verified estimate of carbon stocks has been submitted to ARB and the Offset Project Registry, or after one year has elapsed since the occurrence of the reversal if the OPO/APD fails to submit the verified estimate of carbon stocks.

⁵ If the forest owner does not submit valid compliance instruments within six months of notification by ARB, ARB will retire a quantity of ARB offset credits equal to the deficit from the Forest Buffer Account. The forest owner will be subject to enforcement action, and each deficit compliance instrument will constitute a separate violation pursuant to section 96014.

6.13. How Are Offset Project Registries Approved, and What Are the Requirements for Registry Services?

This section describes the requirements in sections 95986 through 95988 of the Regulation. It describes the requirements that Offset Project Registries must meet and how they will be approved by ARB. The requirements for registry services and how Offset Project Registries interact with ARB are also described. Furthermore, this section discusses the record retention requirements for Offset Project Registries.

NOTE: ARB does not delegate any of its oversight, enforcement, or issuance of compliance ARB offset credits to any approved Offset Project Registry.

Key Definitions

“Offset Project Registry” means an ARB-approved entity that meets the requirements of section 95986 and that lists offset projects, collects Offset Project Data Reports, facilitates verification of Offset Project Data Reports, and issues registry offset credits for offset projects being implemented using a Compliance Offset Protocol.

“Registry Services” means all services provided by an ARB-approved Offset Project Registry in section 95987.

6.13.1. What Is the Application Process for Potential Offset Project Registries?

Section 95986 includes the requirements that third-party registries must meet to be approved by the Executive Officer as an Offset Project Registry (OPR) allowed to perform registry services. The OPR must register with ARB and will be considered a Registered Participant under the Regulation, but will not be allowed to hold compliance instruments.

Application

The first step in the OPR approval process is to submit an application to ARB. The application must include the following information:

- Name of applicant;
- Name of president or chief executive officer;
- List of all board members, if applicable;
- Addresses of offices located in the United States;
- Documentation that the applicant carries at least five million U.S. dollars of professional liability insurance; and

- List of any judicial proceedings and administrative actions filed against the applicant within the previous five years, with a detailed explanation as to the nature of the proceedings.

Conflict-of-Interest Procedures

The prospective OPR must submit in writing their procedures for screening and addressing internal conflict of interests. Specifically, the applicant must submit the following to ARB:

- A staff, management, and board member conflict-of-interest policy where there are clear criteria for what constitutes a conflict of interest. The policy must meet the following requirements:
 - Identify specific activities and limits on monetary and non-monetary gifts that staff, management, and board members are not allowed to conduct or exceed to meet the OPR internal conflict-of-interest policy. Alternatively, the applicant may provide a comprehensive policy regarding its requirements for reporting any and all conflicts that guard against conflict of interest.
 - Include a requirement for annual disclosure by each staff, management, or board member of any items or instances that are covered by the applicant's conflict-of-interest policy on an ongoing basis or for the previous calendar year.
- The applicant must have an appropriate conflict-of-interest and confidentiality requirements in place for any of its contractors.
- A list of all service types provided by the applicant.
- A list of the industrial sectors that the applicant serves.
- A list of locations where services are provided.
- A detailed organizational chart that includes the applicant and any parent, subsidiary, and affiliate company.

Requirements for Designated Subdivisions: In addition to the requirements listed above, if an applicant is going to designate a subdivision of its organization to provide registry services, it must provide a list of general types of services it provides and general locations where those services are provided.

Registry and Tracking Capabilities

The applicant must show that it has a comprehensive registration requirement for all those participating in its registry. It must also have the capability to track ownership and transactions of all registry offset credits it issues at all times. In addition, it must possess a permanent repository of ownership information on all transactions involving all registry offset credits it issues, from the time they are issued to the time they are retired or cancelled.

NOTE: The Offset Project Registry must not subcontract any of these capabilities.

Primary Business Requirements

To become an Offset Project Registry the applicant must show that its primary business is operating an Offset Project Registry for voluntary or regulatory purposes. It must also show that it meets the following business requirements:

- The applicant may not act as an OPO, APD, or consultant on any offset projects that are registered or listed on its own Offset Project Registry and developed using a Compliance Offset Protocol once it is approved as an Offset Project Registry. For designated subdivisions, this requirement applies at the subdivision level. The applicant must also annually disclose any non-offset project-related consulting services it provides to an OPO or APD that lists an offset project developed under a Compliance Offset Protocol with the applicant. This information must be included in the annual report it provides to ARB. This report is described in more detail in Section 6.13.3 of this guidance document.
- The applicant is not allowed to act as an offset verification body or provide offset verification services once it is approved as an Offset Project Registry.
- To qualify as an Offset Project Registry the applicant must demonstrate experience in the continuous operation of a registry that serves an environmentally focused market for at least two years in a regulatory or voluntary market. This must be direct experience by the Offset Project Registry, rather than through a subcontractor.
- The applicant's primary incorporation or other business formation and primary place of business must be in the United States. For designated subdivisions, the primary place of business of the parent company must be in the United States.

Requirements for Designated Subdivisions: If the applicant designates a subdivision of its organization to provide registry services, the applicant may not act as an OPO or APD for offset projects listed at the subdivision's registry. The applicant may not act as a verification body, covered entity, or opt-in covered entity.

Professional Liability Insurance

Once approved, an Offset Project Registry must continue to maintain five million U.S. dollars of professional liability insurance while it provides registry services to OPOs or APDs that are implementing offset projects using Compliance Offset Protocols.

Information Updates

Once approved, an Offset Project Registry must notify ARB within 30 calendar days if any information submitted to ARB after approval changes. It must continuously provide updated information regarding any information submitted in its application, conflict-of-interest procedures, registry and tracking capabilities, primary business requirements, and its professional liability insurance.

Attestations

The Offset Project Registry must make a series of attestations to ARB regarding the information it provided to ARB and its conduct as an Offset Project Registry. These include the following:

- Attestations of regulatory compliance, voluntary participation, and truthful and accurate information (sections 95986(g)(1) and (g)(2))
- An attestation regarding truthfulness and accuracy of audit activities (section 95986(g)(3))
- An attestation regarding the conduct of registry services (section 95986(g)(4))
- An attestation regarding its participation in all ARB related Offset Project Registry training (section 95986(g)(5))
- An attestation from the authorized representative of the Offset Project Registry regarding truthful and accurate information (section 95986(g)(6))

Required Training and Experience

An Offset Project Registry must ensure that at least two of its management staff take ARB-provided training on ARB's compliance offset program and pass an examination once the training is completed. The OPR must have two management staff trained in the compliance offset program at all times. If a management staff member leaves the Offset Project Registry, there must be another management staff member that has successfully completed the training. All requirements for registry approval must be consistently met, or the offset project registry may not be reapproved, pursuant to section 95986(k)(5).

The Offset Project Registry must also have staff members who collectively have completed training on ARB's Compliance Offset Protocols and passed examinations. This does not mean that each staff person must have competency in all Compliance Offset Protocols. However, when looking at the staff members collectively, there must

be competency in all protocol areas among them. The OPR must have at least one staff person who has completed ARB approved training in each Compliance Offset Protocol at all times. If a staff person who is trained in a specific Compliance Offset Protocol leaves the Offset Project Registry, there must be another staff person that has successfully completed the training. Any gaps in knowledge of a Compliance Offset Protocol should be minimized. All requirements for registry approval must be consistently met, or the offset project registry may not be reapproved, pursuant to section 95986(k)(5).

In addition, the Offset Project Registry must be able to demonstrate experience in staff oversight of the offset project review, listing, and registry offset credit issuance process, and show that they have requirements within their organization for such oversight.

6.13.2. *How Does ARB Approve Offset Project Registries and What Are the Conditions of Approval?*

Section 95986(k) describes ARB's approval process for Offset Project Registries. Section 95986(l) describes the circumstances under which that approval may be modified, suspended, or revoked by ARB.

ARB Approval

After ARB has received the application for approval as an Offset Project Registry, and the applicant's management staff has completed ARB developed and sponsored training of ARB's compliance offset program, ARB will inform the applicant whether or not the application is complete. ARB will notify the applicant of completeness within 60 calendar days of receiving the application. If it is not complete, ARB will let the applicant know what additional specific information is required to make the application complete. The applicant may submit additional supporting documentation to ARB before a final determination is made by the Executive Officer.

Once the application process is completed, ARB has 60 calendar days to determine if the applicant meets the requirements for approval. If the applicant meets the requirements to become an Offset Project Registry, the Executive Officer will issue an Executive Order to that effect. The Offset Project Registry will also be listed on ARB's webpage as an approved Offset Project Registry.

NOTE: The standard timing for approval is a maximum of 120 calendar days; however, ARB and the applicant may mutually agree, in writing, to a longer time period, if needed.

Subject to the modification, suspension, and revocation procedure described below, the approval of an Offset Project Registry is valid for a period of 10 years, after which the applicant must reapply. When it reapplies, it must demonstrate that it has consistently met all of the requirements relating to approval. It must also pass a performance review. The performance review must show that the Offset Project Registry has consistently demonstrated knowledge of ARB's compliance offset program and its Compliance Offset Protocols, met all regulatory deadlines, and provided registry services in accordance with the requirements in the Regulation. The requirements for registry

services will be described below. In addition, the Offset Project Registry may only be approved if it has not been subject to enforcement action under the Cap-and-Trade Program.

Modification, Suspension, and Revocation of Approval for Offset Project Registries

After review, the Executive Officer may modify, suspend, or revoke an Executive Order regarding an Offset Project Registry for good cause. This action may occur, for good cause, at any time during which an Offset Project Registry is approved. If the Executive Officer has initiated a revocation proceeding, the Offset Project Registry may not provide registry services during the proceeding.

The Regulation includes requirements that Offset Project Registries and OPOs or APDs must meet in the event that an Offset Project Registry's approval is suspended.

Requirements for Offset Project Registries – Within five working days of its suspension or revocation of approval, the Offset Project Registry must notify all OPOs and APDs for whom it is providing registry services, or has provided registry services within the previous 12-month time period.

Requirements for OPOs and APDs – If an OPO or APD has been notified that the approval of an Offset Project Registry has been suspended or revoked, it must resubmit its offset project information to another Offset Project Registry. If an offset project is transferred to another Offset Project Registry under these circumstances, the offset project will continue to operate under its originally approved crediting period.

NOTE: ARB may extend the crediting period of an offset project transferred under these circumstances for one year, if it determines that such an extension is necessary to compensate for the time needed to resubmit information to another Offset Project Registry. ARB may also determine that the relevant deadline for submitting Offset Verification Statements (see section 95977(d) for the relevant deadline) to an Offset Project Registry may be extended if necessary.

6.13.3. What Are the Requirements for Registry Services?

Section 95987 of the Regulation describes the requirements for registry services. This includes all of the services that Offset Project Registries must perform and the requirements they must meet while performing them.

Use of Compliance Offset Protocols

Offset Project Registries must use Compliance Offset Protocols to determine whether an offset project may be listed and issued registry offset credits as defined in the Regulation. Offset Project Registries may not choose which Compliance Offset Protocols they will list offset projects under. As part of providing registry services they must list offset projects under all of ARB's approved Compliance Offset Protocols. Registry offset credits may not be issued to offset projects that are not developed under Compliance Offset Protocols; however, Offset Project Registries may list projects under

non-Compliance Offset Protocols on their registry if they make it clear that the GHG reductions or removal enhancements achieved from those offset projects are not eligible to be issued registry offset credits or ARB offset credits. These offset projects could be issued voluntary offset credits by the Offset Project Registries, but they may not be called registry offset credits.

The Offset Project Registry must clearly identify which offset projects are listed, and subsequently submit Offset Project Data Reports, using Compliance Offset Protocols.

Transparent and Public Release of Information

Offset Project Registries must make specific information publicly available for each offset project that is developed under Compliance Offset Protocols. The information is described below.

Offset Project Listing Information – Within 10 working days of determining that an offset project listing is complete (section 95975(f)), the Offset Project Registry must make the following information publicly available:

- Name of the offset project;
- Location of the offset project;
- Name of the OPO, and if applicable, the APD;
- Type of offset project;
- Name and date of the Compliance Offset Protocol used for the offset project;
- Date of offset project listing submittal and offset project commencement date; and
- Identification of whether the offset project is in an initial or renewed crediting period.

Verification and Issuance Information – Within 10 working days of a registry offset credit being issued for an Offset Project Data Report, the Offset Project Registry must make the following information publicly available:

- Annual verified project baseline emissions;
- Annual verified GHG reductions or removal enhancements achieved by the offset project;
- Unique serial numbers of the registry offset credits issued to the offset project for the applicable Offset Project Data Report;

- Total verified GHG reductions and removal enhancements for the offset project by Reporting Period for when an Offset Project Data Report was submitted; and
- Offset Verification Statement for each year the Offset Project Data Report was verified.

Conflict-of-Interest Reviews

Offset Project Registries must conduct conflict-of-interest reviews of verification bodies that are proposing to conduct offset verification services. The reviews must meet the requirements in section 95979 of the Regulation. These requirements are discussed in more detail in a separate guidance document related to general offset verification.

Offset Project Registries must review and ensure that the self-evaluation for conflict of interest submitted by the verification body is complete. If ARB finds at any time that a high level of conflict-of-interest exists, or an Offset Project Data Report fails an audit, ARB may set aside the Positive or Qualified Positive Offset Verification Statement and require that the OPO or APD re-verify the affected reports by a different verification body within 90 calendar days.

When an OPO or APD submits the information to ARB that is required for issuance of ARB offset credits, the Offset Project Registry must provide ARB with the self-evaluation for conflict-of-interest associated with the offset verification services conducted for the Offset Project Data Report and the related attestation (see section 95979(e)) within 15 calendar days.

Guidance for OPOs, APDs, and Offset Verifiers

If ARB does not provide guidance for a specific topic and there is no clear requirement regarding the topic in a Compliance Offset Protocol, the Offset Project Registry may provide guidance to OPOs, APDs, or offset verifiers. If the response needed to answer the question or topic for guidance is citing the Regulation and Compliance Offset Protocols or describing the requirements in common terminology, the Offset Project Registry may provide clarification without first contacting ARB. However, if there is any interpretation of the regulatory requirements, or the need to make a judgment regarding the circumstances of a specific offset project, the Offset Project Registry should contact ARB prior to giving guidance on the question or topic. ARB will develop responses to these inquiries and will provide these responses to the Offset Project Registry and post them on a public website to facilitate a standard and consistent response.

Offset Project Registries must maintain records of all correspondence and communication with OPOs, APDs, and offset verifiers when providing any clarifications or guidance for compliance offset projects. The Offset Project Registry must document any requests for clarification or guidance received by an OPO or APD. All Offset Project Registry responses must be submitted to ARB on an ongoing monthly basis, beginning with the date of approval as the Offset Project Registry.

Audits

Annually, Offset Project Registries must audit at least 10 percent of offset verifications conducted for compliance offset projects. These audits are supplemental to any audits ARB conducts as oversight of its compliance offset program. The requirements for the audits can be found in section 95987(e) of the Regulation and are explained in detail below.

Each audit must include the following checks:

- Staff from the Offset Project Registry must attend the offset project site visit with the offset verification team.
- Staff from the Offset Project Registry must attend the first meeting between the offset verification team and the OPO or APD in person or through conference call.
- Staff from the Offset Project Registry must attend the last meeting or discussion between the offset verification team and the OPO or APD, in person or through conference call.
- Staff from the Offset Project Registry must document any findings during the audit that lead them to provide guidance or require corrective action with the offset verification team. In this documentation, the Offset Project Registry must include a list of issues noted during the audit and how they were resolved.
- Staff from the Offset Project Registry must review the detailed verification report and the sampling plan to make sure it meets the requirements of the Regulation. The Offset Project Registry must document any discrepancies it finds during the review.
- Staff from the Offset Project Registry must conduct an investigative review of the conflict-of-interest assessment submitted by the verification body, which includes the following:
 - Discussions with both the lead verifier who submitted the conflict of interest self-evaluation and the OPO or APD to confirm the information in the conflict of interest self-evaluation is true, accurate, and complete.
 - An internet-based search to ascertain the existence of any previous relationship between the verification body and the OPO or APD. If there is a relationship, the Offset Project Registry must investigate the nature and extent of the relationship.
 - Any other follow up by the Offset Project Registry to have reasonable assurance that the information provided in the conflict-of-interest self-evaluation is true, accurate, and complete.

Review of Verification Reports

Offset Project Registries must review each detailed verification report that is submitted by the verification body for completeness and accuracy. It must ensure that the detailed verification report meets the applicable requirements before accepting the associated Offset Verification Statement and issuing registry offset credits. The requirements for verification reports can be found in section 95977.1(b)(3)(R)4.a. of the Regulation. These requirements are discussed in detail in a separate guidance document related to general offset verification.

Information Sharing and Staff Availability During ARB Audits

An Offset Project Registry is required to provide ARB with all information in its possession, custody, or control related to a compliance offset project within 10 calendar days of receiving a request by ARB at any point in time.

Specifically related to ARB audits, an Offset Project Registry is also required to make its staff and all information it possesses relating to a compliance offset project available to ARB during any audits or oversight activities conducted by ARB, to ensure that the requirements of the Regulation are being carried out as required.

Retirement of Registry Offset Credits

Once ARB notifies an Offset Project Registry that an offset project is eligible to be issued ARB offset credits, the Offset Project Registry must remove or cancel any registry offset credits issued for the applicable Offset Project Data Report. Thereafter, the registry offset credits must no longer be available for transaction on the Offset Project Registry's system.

Annual Report of Activities

Each year, the Offset Project Registry must provide ARB with an annual report by January 31 for information related to the previous year's compliance offset projects. The annual report must include the following information for each offset project:

- Name of the offset project;
- Type of offset project and applicable Compliance Offset Protocol;
- Name of OPO and APD, if applicable;
- Location of the offset project;
- Associated verification body;
- The applicable crediting period;
- Amount of registry offset credits issued to date; and

- Amount of any registry offset credits retired or cancelled for the offset project by the Offset Project Registry to date.

Insurance Mechanisms

Offset Project Registries may offer insurance or other products to market participants to cover the risk of invalidation of ARB offset credits. It is not required that Offset Project Registries offer such products, and the purchase or use of any insurance or other mechanisms is optional for all market participants.

6.13.4. *What Are the Record Retention Requirements for Offset Project Registries?*

Section 95988 of the Regulation requires Offset Project Registries to maintain all information submitted, and correspondence related to listed compliance offset projects for a minimum of 15 years.

6.14. What Are the Requirements for Early Action?

This section describes the requirements for recognition of early action. The early action provisions are found in section 95990 of the Regulation. The early action provisions are designed to recognize parties that made early reductions in GHGs. The Early Action Offset Program is limited in scope and only allows GHG reductions or removal enhancements that occurred within a specific time frame and achieved under approved quantification methodologies to qualify under the program. Currently, ARB has approved several voluntary quantification methodologies for four specific project types, including livestock digesters, ozone-depleting substances, forestry, and urban forestry. The specific quantification methodologies are listed in section 95990(c)(5) of the Regulation. ARB may adopt additional early action quantification methodologies; however, ARB will only adopt early action quantification methodologies for project types for which it also adopts a Compliance Offset Protocol.

This section describes the requirements that Early Action Offset Programs and early action offset credits must meet to be eligible under the Cap-and-Trade Program. It also lists the quantification methodologies that may be used for recognition of early action offset credits and describes the requirements for listing early action offset projects. In addition, this section describes the process for regulatory verification of Offset Project Data Reports submitted to Early Action Offset Programs and the requirements for assessing conflict of interest. The process for transitioning early action offset credits into ARB offset credits, including how contributions are made to the Forest Buffer Account, is also described. Finally, this section discusses the requirements for transitioning early action offset projects to Compliance Offset Protocols and invalidation rules as they relate to offset projects that came into the program under early action.

Key Definitions

“Early Action Offset Credit” means a tradable credit issued by an Early Action Offset Program that represents a GHG reduction or GHG removal enhancement equivalent to one metric ton of CO₂e and meets the requirements of section 95990(c).

“Early Action Offset Program” means a program that meets the requirements of section 95990(a) and is approved by ARB.

“Early Action Offset Project” means an offset project that is registered with an Early Action Offset Program and has been issued early action offset credits.

6.14.1. What Are Early Action Offset Credits?

Early action offset credits (EAOCs) are offset credits developed under approved voluntary quantification methodologies that meet specific criteria in the Regulation. The approved voluntary quantification methodologies are listed in section 95990(c)(5) of the Regulation. EAOCs are issued by programs that must be approved by ARB, referred to as Early Action Offset Programs. Early action offset credits must also meet the requirements for regulatory verification. If ARB determines that an early action offset

credit meets the requirements of the Regulation, the early action offset credit must be retired or cancelled by the issuing Early Action Offset Program in its system before ARB will issue an ARB offset credit that may be used for compliance purposes.

6.14.2. *What Requirements Do Early Action Offset Programs Need to Meet, and How Are They Approved?*

An Early Action Offset Program is a program that is approved by ARB to issue early action offset credits. The Regulation includes requirements that a program must meet to act as an Early Action Offset Program. ARB must approve each Early Action Offset Program before the early action offset credits it issues can be eligible for ARB offset credit issuance.

What Are the Requirements for Early Action Offset Programs?

The Regulation includes requirements that a program must meet to act as an Early Action Offset Program. If the program is approved to be an Offset Project Registry and has been issued an Executive Order, it qualifies as an Early Action Offset Program. Please see Section 6.13 for the requirements for Offset Project Registries. If it has not been approved as an Offset Project Registry and issued an Executive Order, it must prove that it meets the following requirements detailed below (see section 95990(a)):

Professional Liability Insurance – The Early Action Offset Program must carry at least one million dollars of professional liability insurance.

Registration and Tracking Capabilities – The Early Action Offset Program must have a comprehensive registration requirement for all participants in its registry system. The Early Action Offset Program must also be able to track the current owner and all trades related to any early action offset credit at any time on its registry system. The Early Action Offset Program must also be able to keep all records related to ownership information on all transactions, from the time they are issued to the time they are permanently retired or cancelled from its registry system.

The Early Action Offset Program only needs to have the capabilities above for early action offset credits that have been issued under approved early action offset quantification methodologies. The approved early action offset quantification methodologies, listed in section 95990(c)(5) of the Regulation, will be discussed later in this section.

Primary Business Requirements – Early Action Offset Programs must operate an offset credit registry as its primary business. The Early Action Offset Program cannot be an Offset Project Operator, or act as a consultant, for any early action offset projects that are developed under the approved early action offset quantification methodologies if they are registered on its own registry system. These requirements apply to a designated subdivision as well, if the applicant is designating a subdivision to provide services as an Early Action Offset Program. However, an Early Action Offset Program is allowed to act as an offset project

consultant for early action offset projects as long as the offset project in question is registered with an unaffiliated Early Action Offset Program or Offset Project Registry. This also applies to designated subdivisions.

The Early Action Offset Program cannot be a verification body or provide any verification services. Its primary place of business must be in the United States.

Documentation – The Early Action Offset Program must submit all information from OPOs, APDs, and verification bodies to ARB. This includes registration documentation, sampling plans, and Early Action Verification Reports.

Retirement of Early Action Offset Credits – If ARB determines that ARB offset credits should be issued for early action offset credits, the Early Action Offset Program must remove or cancel the early action offset credits in its system, so that they may no longer be traded or used.

Attestations – The Early Action Offset Program must provide an attestation to ARB regarding the accuracy and completeness of all information submitted to ARB.

Record Retention – Early Action Offset Programs must retain all information regarding offset projects registered on their system. They must retain ownership information regarding all transfers of early action offset credits until they are cancelled or permanently removed from the Early Action Offset Program's system.

How Are Early Action Offset Programs Approved?

The applicant can either apply and be approved to act as an Offset Project Registry, and thereby also be approved as an Early Action Offset Program, or it can prove that it meets all the requirements described above. If ARB finds that it meets all the requirements listed above, ARB will approve the applicant as an Early Action Offset Program and list it on ARB's webpage.

6.14.3. What Criteria Do Early Action Offset Credits Need to Meet?

Section 95990(c) of the Regulation includes a list of criteria that voluntary offset credits must meet to be considered early action offset credits, and ultimately be issued ARB offset credits. Early action offset credits may not be used for compliance. Once ARB determines that an early action offset credit meets the requirements of the Regulation, it will request that the Early Action Offset Program retire or cancel the original early action offset credit in its system, and ARB will issue an ARB offset credit to replace it. These ARB offset credits may then be used for compliance. Other requirements for early action offset credits are described below.

Timing of GHG Reductions and Removal Enhancements

Not all offset credits issued by Early Action Offset Programs are eligible to be issued ARB offset credits. The Regulation specifies that only GHG reductions or removal enhancements that occurred between January 1, 2005 and December 31, 2014 under approved voluntary quantification methodologies are eligible to become early action offset credits. These dates focus on when the actual reductions or removal enhancements occur. Eligibility for early action recognition is not tied to an offset project commencement date as is the case with those offset projects that are developed under Compliance Offset Protocols.

NOTE: GHG reductions or removal enhancements issued under approved voluntary quantification methodologies listed in section 95990(c)(5) that occur before January 1, 2005, or after December 31, 2014, are not eligible to be issued ARB offset credits. If an early action project transitions to a Compliance Offset Protocol, GHG reductions or removals achieved after December 31, 2014, may be issued ARB offset credits if they meet the requirements of the Regulation and applicable Compliance Offset Protocol.

Regulatory Verification

Early action offset credits must meet the requirements of regulatory verification. These requirements can be found in section 95990(f) of the Regulation and are discussed in more detail later in this section. Regulatory verification is required for all offset credits to be eligible for issuance as ARB offset credits.

Timing for Listing or Registration

The Regulation requires that early action offset projects be listed or registered with an Early Action Offset Program prior to January 1, 2014, if any early action offset credits may be eligible for issuance of ARB offset credits. If an offset project lists or registers with an Early Action Offset Program after this date, they will be ineligible for early action offset credits.

Use of Approved Early Action Offset Quantification Methodologies

Offset projects must be developed under one of the quantification methodologies listed below in order to be eligible for early action recognition. These quantification methodologies can be found in section 95990(c)(5) of the Regulation and include:

- Climate Action Reserve U.S. Livestock Project Protocol versions 1.0 through 3.0;
- Climate Action Reserve Urban Forest Project Protocol versions 1.0 through 1.1;
- Climate Action Reserve U.S. Ozone Depleting Substances Project Protocol version 1.0; and

- Climate Action Reserve Forest Project Protocol versions 2.1 and 3.0 through 3.2.^{6,7}

Table 6.4 contains some frequently asked questions about early action offset credit eligibility:

Table 6.4. Q & A on Early Action Offset Credit Eligibility

| | |
|---|--|
| When do the reductions or sequestration have to occur? | Between January 1, 2005 and December 31, 2014 |
| What is the deadline for listing or registering an early action offset project with an Early Action Offset Program (EAOP)? | January 1, 2014 |
| Where do early action offset projects need to be located? | In the United States, including Hawaii and Alaska; however, specific approved early action quantification methodologies may further limit the geographic location requirements. |
| What quantification methodologies do early action offset projects need to use? | <ul style="list-style-type: none"> • Climate Action Reserve U.S. Livestock Project Protocol versions 1.0 through 3.0 • Climate Action Reserve Urban Forest Project Protocol versions 1.0 through 1.1 • Climate Action Reserve U.S. Ozone Depleting Substances Project Protocol version 1.0 • Climate Action Reserve Forest Project Protocol versions 2.1 and 3.0 through 3.2 |
| What are the regulatory verification requirements? | See the requirements in section 95990(f) of the Regulation and further discussions around regulatory verification later in this section of this guidance document. |

6.14.4. Who May Transition Early Action Offset Credits into ARB Offset Credits?

Utilization of the Early Action Offset Program is optional for voluntary market participants. OPOs and APDs of early action offset projects are not required to transition early action offset credits into ARB offset credits. OPOs and APDs may transition early action offset credits into ARB offset credits because they own some of the voluntary credits that have been issued to their projects, or because they want to streamline the process for holders of voluntary credits from their projects. Pursuant to sections 95990(d), (e), (f), and (h) there are steps that parties converting voluntary credits into ARB offset credits must follow to meet the requirements of the Regulation. These include: requirements for registration with ARB, submitting listing information,

⁶ Early action offset projects developed under Climate Action Reserve Forest Project Protocol versions 2.1 and 3.0 through 3.2 must contribute early action offset credits into a buffer account based on its reversal risk calculated under Compliance Offset Protocol U.S. Forest Projects.

⁷ Additional requirements for early action forest offset projects can be found in later in this section.

conducting regulatory verification, and providing information for issuance, including signing specific attestations.

OPO or APD Transitions Early Action Offset Credits into ARB Offset Credits

In most cases, ARB expects that the OPO or APD will work with the holders of the original voluntary credits to be issued ARB offset credits in lieu of early action offset credits. In some cases, the OPO or APD is the only party that can seek issuance of ARB offset credits for early action. This restriction applies specifically to some types of offset projects and will be discussed in more detail later in this section. In order for the OPO or APD to transition the early action offset credits into ARB offset credits, the OPO or APD would have to register with ARB for a CITSS account, submit specific information for listing, facilitate the regulatory verification process, and sign specific attestations to ARB (found in section 95990(h) of the Regulation). The benefits of having the OPO or APD complete the transition is that the transition is more streamlined, and the submittal of documents is only needed once.

If the OPO or APD initiates transition of the early action offset credits into ARB offset credits, all ARB offset credits for that project will be issued directly to the OPO or APD. Therefore, if the OPO or APD is applying for early action offset credits on behalf of holders, the OPO or APD would then transfer the correct number of ARB offset credits to each holder in the CITSS system. Since ARB would be issuing all the ARB offset credits into the OPO or APDs account, the OPO or APD will need to provide ARB with the name of the individual holders and how many ARB offset credits they are seeking issuance of for each holder. This allows ARB to verify with the Early Action Offset Program that these holders do indeed own the early action offset credits that ARB is issuing ARB offset credits for. If the OPO or APD initiates transition the individual holders would be precluded from pursuing issuance of ARB offset credits independently of working through the OPO or APD. ARB recommends that the OPO or APD and the holders enter into third-party contracts to arrange transfer of the ARB offset credits and sort out any issues regarding invalidation liability of the ARB offset credits.

As there may be multiple holders of early action offset credits for each offset project, there may also be circumstances where not all the holders of the early action offset credits work through the OPO or APD at the same time. This may happen over time, but must happen by September 30, 2015. In this case, if the OPO or APD originally transitioned the early action offset credits into ARB offset credits, the holders would need to contact the OPO or APD before the cutoff date in 2015, and also notify ARB that they are seeking issuance of ARB offset credits. This way, ARB can ensure that the correct amount of ARB offset credits are being issued to the OPO or APD for the holder, and that the Early Action Offset Program can retire the entire amount of credits for which the holder is seeking issuance.

For example, here are some scenarios that may occur, if the OPO or APD transitions the early action offset credits:

- Scenario 1: The OPO or APD holds early action offset credits issued to the offset project.

- The OPO or APD initiates the transition process and may be issued ARB offset credits into its CITSS account in lieu of its early action offset credits.
- Scenario 2: If the OPO or APD initiates the transition process and individual holders own early action offset credits from the OPO or APD's project the holders may work with the OPO or APD before the initial issuance of ARB offset credits to the OPO or APD. The holders must work with the OPO or APD because if the OPO or APD initiates the transition process all ARB offset credits must be issued to the OPO or APD, and they may not be issued directly to the holders. In this case the holders would work through the following process:
 - The holders contact the OPO or APD and work through them to receive the ARB offset credits;
 - The holders notify ARB that they are seeking issuance of ARB offset credits from the specific offset project and vintage year;
 - ARB offset credits are issued to the OPO or APD in lieu of the holders' early action offset credits at the time of the initial ARB offset credit issuance to the OPO or APD. If the OPO or APD were also holders of early action offset credits they would also be issued ARB offset credits at this time; and
 - The OPO or APD transfers the appropriate number of ARB offset credits into the CITSS account of the individual holders.
- Scenario 3: If the individual holders who own early action offset credits from the OPO or APD's project do not work with the OPO or APD before the initial issuance of ARB offset credits, as described in scenario 2 above, they may still work through the OPO or APD after the initial issuance of ARB offset credits to the OPO or APD through the following process:
 - The holders contact the OPO or APD and work through them to receive the ARB offset credits;
 - The holders notify ARB that they are seeking issuance of ARB offset credits from the specific offset project and vintage year;
 - ARB offset credits are issued to the OPO or APD in lieu of the holders' early action offset credits at the time requested; and
 - The OPO or APD transfers the appropriate number of ARB offset credits into the CITSS account of the individual holders.

Specific Cases Where ONLY the OPO or APD May Transition the Early Action Offset Credits into ARB Offset Credits

In some cases, only the OPO or APD can transition the early action offset credits into ARB offset credits. This depends on the type of offset project, and whether or not the

OPO or APD will transition the offset project from a voluntary quantification methodology to an ARB Compliance Offset Protocol by 2015. In these circumstances individual holders would be precluded from pursuing issuance of ARB offset credits. Instead they must work through the OPO or APD.

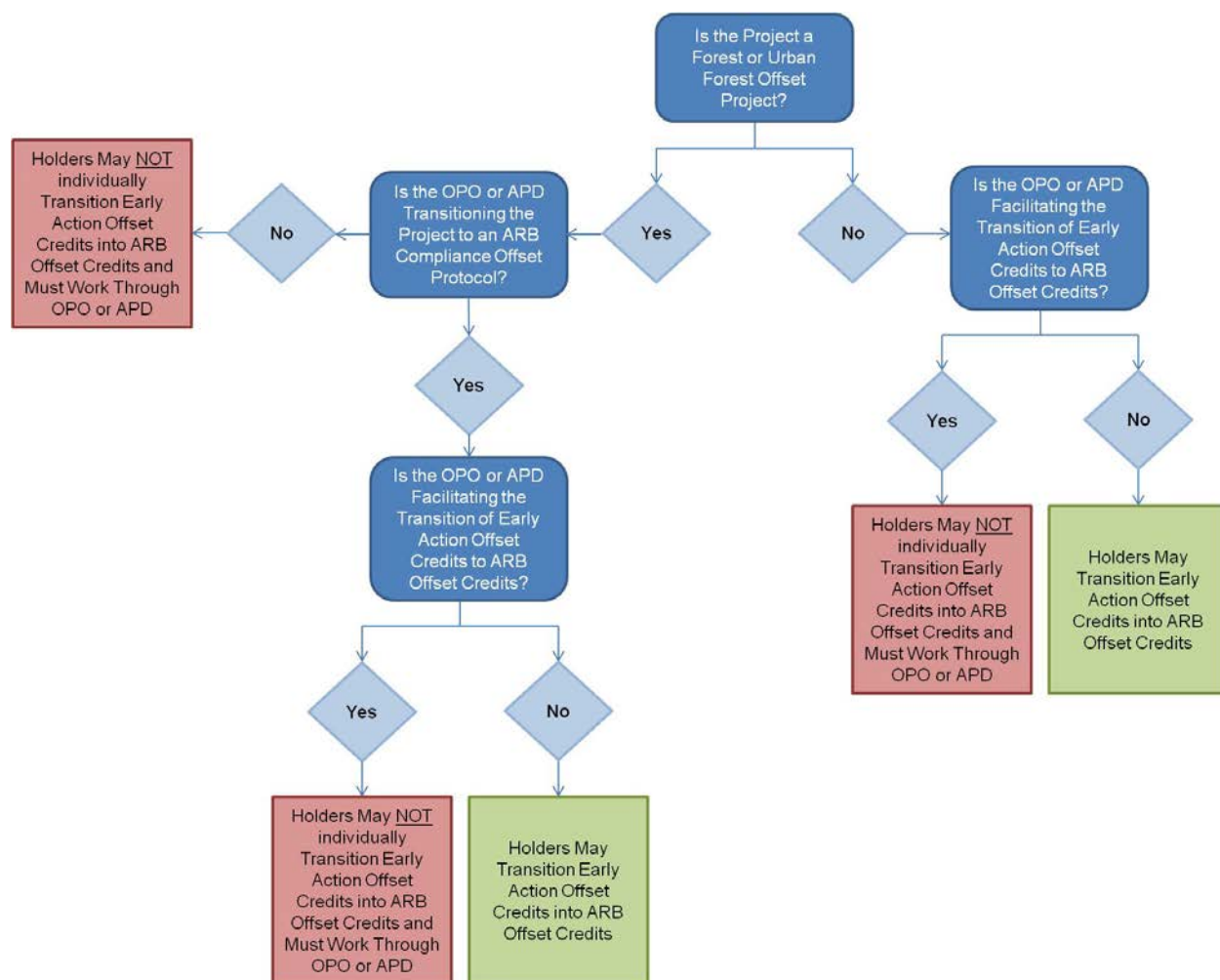
For example, if the OPO or APD of a forest or urban forest offset project does not transition to a Compliance Offset Protocol, the OPO or APD is the only party that can seek issuance of ARB offset credits for early action. In this case the transition of early action offset credits into ARB offset credits can never be conducted by the individual early action offset credits holders. If the holders of the early action offset credits cannot work through the OPO or APD to be issued ARB offset credits, those credits would remain in the voluntary market and may not be transitioned into the compliance offset program.

The requirements for transitioning an offset project to an ARB Compliance Offset Protocol can be found in section 95990(k) of the Regulation and are discussed in more detail later in this section of this guidance document. This situation may arise if the OPO or APD plans to operate the offset project solely in the voluntary market and does not plan to transition the project to a Compliance Offset Protocol.

When Can Individual Holders Transition Early Action Offset Credits into ARB Offset Credits?

As stated above, individual holders of early action offset credits may only seek issuance of ARB offset credits independently of OPOs and APDs under certain circumstances, which depend on the type of offset project and whether or not the OPO or APD will transition the offset project to a Compliance Offset Protocol in the future. The holders may know what the OPO or APD intentions are by talking directly to them, or by looking on the ARB or the Early Action Offset Program webpage to see if the OPO or APD has submitted the information for listing, and therefore, initiated the process. If individual holders are prohibited from seeking issuance independently, they must work through the OPO or APD to be issued ARB offset credits. The circumstances in which individual holders may transition early action offset credits into ARB offset credits are shown in Figure 6.3.

Figure 6.3 Circumstances When Individual Holders Can Transition Early Action Offset Credits to ARB Offset Credits



Individual holders may seek issuance of ARB offset credits, in lieu of early action offset credits, for livestock and ODS projects if (and only if) the OPO or APD has not initiated the process to transition early action offset credits into ARB offset credits. For forest and urban forest projects, the individual holders may only seek issuance of ARB offset credits if the OPO or APD plans to transition the project to a Compliance Offset Protocol AND the OPO or APD is not facilitating the transition of early action offset credits into ARB offset credits.

For forest and urban forest projects that transition to an ARB Compliance Offset Protocol, and for ODS and livestock projects, if the holders would like to seek issuance of ARB offset credits independently from the OPO or APD, as described above, ARB recommends that holders obtain certainty that an OPO or APD is not going to transition the early action offset credits to ARB offset credits before initiating the transition process.

for ARB offset credits. If possible, the holders should try to provide proof to ARB that the OPO or APD is not going to transition the early action offset credits.

In reality, there are likely to be multiple holders seeking issuance of ARB offset credits. Therefore, ARB recommends that the individual holders coordinate to streamline the regulatory verification process. The Regulation only requires that regulatory verification be performed once for each Offset Project Data Report, for each early action project to meet the regulatory requirements. If one holder performs the verification, other holders may seek transition without having to perform the verification again. ARB recommends that holders wishing to seek issuance of ARB offset credits share the costs of performing regulatory verification. Each holder is required to submit specific listing information to ARB, as described below. ARB may accept this information jointly from multiple holders, but it must be made clear which holders are submitting the information. If there are holders that do not file information jointly with other holders, they must submit the required information individually to meet the regulatory requirements. All holders must sign the attestations required in section 95990(h)(5) of the Regulation and discussed later in this section. The attestations may not be submitted jointly.

Registration Requirement

Section 95990(d) of the Regulation requires that the party or parties seeking issuance of ARB offset credits (this could be the OPO, APD, or each individual holder) register with ARB by acquiring a CITSS account. Any party that will be receiving ARB offset credits issued in lieu of early action offset credits will need to have an account in CITSS. Please see the following website for more information on how to register in CITSS: <http://www.arb.ca.gov/cc/capandtrade/markettrackingsystem/markettrackingsystem.htm>.

Information Required for Listing Early Action Offset Projects

Section 95990(e) of the Regulation requires the party or parties seeking issuance of ARB offset credits (this could be the OPO, APD, holders jointly, or individual holders) to submit the following information for listing an early action offset project:

- Name of the early action offset project;
- Location of the early action offset project;
- Name of the OPO or APD, if applicable;
- Name, date, and version number, if applicable, of the approved early action offset quantification methodology that was used to develop the offset project;
- Date of early action offset project listing or registration;
- Offset Project Commencement date; and
- Names of all verification bodies associated with the early action offset project.

If the OPO or APD is transitioning the early action offset credits into ARB offset credits, the OPO or APD would submit this information once, and it would apply to any ARB offset credits issued to that offset project. If individual holders apply to transition the early action offset credits into ARB offset credits independently of the OPO or APD, each holder is required to submit the specific listing information to ARB. As specified above, ARB may accept this information jointly from multiple holders, but it must be made clear which holders are submitting the information. If there are holders that do not file information jointly with other holders, they must submit the required information individually to meet the regulatory requirements. In addition, all holders must sign the attestations required in section 95990(h)(5) of the Regulation and discussed later in this section. The attestations may not be submitted jointly.

6.14.5. *What Types of Information Do Early Action Offset Programs Need to Make Available for Listing?*

Early action offset programs must make specific information available to the public on its webpage. The webpage must clearly indicate which early action offset projects and the associated Offset Project Data Report years qualify for early action and which are approved for early action. The Early Action Offset Program must make the following specific information available on a publicly available website:

- Name of the early action offset project;
- Location of the early action offset project;
- Name of the OPO or APD, if applicable;
- Name, date, and version number, if applicable, of the approved early action offset quantification methodology that was used to develop the offset project;
- Date of early action offset project listing or registration;
- Offset Project Commencement date; and
- Names of all verification bodies associated with the early action offset project.

6.14.6. *How Do Early Action Offset Credits Meet the Requirements for Regulatory Verification?*

Early action offset credits must meet the requirements for regulatory verification before they may be eligible to be issued ARB offset credits, pursuant to section 95990(f) of the Regulation. Regulatory verification of early action credits will be based on the version of the early action offset quantification methodology that was used to develop the offset project. The purpose of regulatory verification of early action offset credits is not for ARB or the ARB-approved offset verification body to recalculate the number of GHG reductions and removal enhancements that would have occurred under ARB's Compliance Offset Protocol, but to have reasonable assurance that the early action offset credit issued conformed with the early action offset quantification methodology.

However, beginning in 2015, or once the offset project transitions to ARB's Compliance Offset Protocol, whichever is earlier, the offset project will be required to meet the verification requirements and calculate GHG reductions and removal enhancements according to ARB's Compliance Offset Protocol.

Key Definitions

“Conflict of Interest” means, for purposes of this article, a situation in which, because of financial or other activities or relationships with other persons or organizations, a person or body is unable or potentially unable to render an impartial Offset Verification Statement of a potential client's Offset Project Data Report, or that the person or body's objectivity in performing offset verification services is or might be otherwise compromised.

“Early Action Verification Report” means a verification report that is submitted to an Early Action Offset Program and covers GHG reductions or GHG removal enhancements achieved by an early action offset project over a specific time period.

“Reasonable Assurance” means a high degree of confidence that submitted data and statements are valid.

Who May Verify Early Action Offset Credits?

Early action offset credits must be verified by an ARB-accredited verification body. The verifier performing the regulatory verification services for the early action offset project must be different than the one that did the initial verification under the Early Action Offset Program. This ensures that the review is completely independent and unbiased.

What Are the Conflict-of-Interest Requirements for Verification of Early Action Offset Credits?

The verification body conducting regulatory verification of early action offset credits must conduct a conflict-of-interest assessment against specific parties pursuant to section 95990(g). The conflict of interest assessment must meet the requirements of section 95979 of the Regulation. These requirements are described in more detail in a separate document on general offset verification. The conflict of interest must be assessed against each data report year for which the verification body is conducting regulatory verification. The verification body must submit the conflict-of-interest assessments for each data report year to ARB before ARB can issue ARB offset credits for early action GHG reductions or removal enhancements.

The verification body must meet the requirements for conflict of interest as described in section 95979 of the Regulation. In addition, the verification body must conduct a conflict-of-interest assessment against the following parties for each data report year:

- The OPO and APD, if applicable; and

- Any party that holds greater than 30 percent of the early action offset credits issued under each applicable data report year(s) that are reviewed as part of the early action verification services. Please see Example 6.14.1. for how to apply this provision to urban forest, livestock digester, and ODS projects, and see 6.14.2 for how to apply this provision to forest projects.

Example 6.14.1

The following example illustrates how to determine which parties should be assessed for conflict of interest for an urban forest, livestock digester, or ODS offset project:

10,000 offset credits were issued under Offset Project Data Report 2012
($Issued_{2012}$)

Each party holds a different amount of early action offset credits issued under the 2012 verification report ($Credits_{Held}$)

Party A holds 2,500 offset credits

Party B holds 3,700 offset credits

Party C holds 3,800 offset credits

Percentage for determining if COI applies = $\left| 100 \times \left(\frac{Credits_{Held}}{Issued_{2012}} \right) \right|$

Conflict of interest must be assessed only against those parties that hold more than 30 percent of the offset credits under an Offset Project Data Report. In this example conflict of interest must only be assessed against Party B and Party C as they hold 37 and 38 percent respectively.

Example 6.14.2

If the offset project is a forest offset project, the contribution made to the Forest Buffer account must be accounted for in determining whether or not conflict of interest applies:

10,000 offset credits were issued under Offset Project Data Report 2012
(Issued₂₀₁₂)

2,000 offset credits were placed into the Forest Buffer Account for the 2012
Offset Project Data Report (Buffer₂₀₁₂)

Each party holds a different amount of early action offset credits issued under the
2012 data report (Credits_{Held})

Party A holds 2,300 offset credits

Party B holds 2,500 offset credits

Party C holds 5,200 offset credits

Percentage for determining if COI applies = $\left| 100 \times \left(\frac{\text{Credits}_{\text{Held}}}{\text{Issued}_{2012} - \text{Buffer}_{2012}} \right) \right|$

Conflict of interest must be assessed only against those parties that hold more than 30 percent of the offset credits under an Offset Project Data Report. In this example, conflict of interest must only be assessed against Party B and Party C, as they hold 31 and 65 percent, respectively.

6.14.7. What is the Process for Regulatory Verification of Early Action Offset Credits?

Section 95990(f) of the Regulation describes the process for regulatory verification of early action offset credits. Regulatory verification must be conducted for any Offset Project Data Report for which any party is seeking issuance of ARB offset credits. The regulatory verification includes a desk review of each applicable Offset Project Data Report. In some cases, full verification of an Offset Project Data Report may be required in addition to the desk review. Those circumstances that may trigger full verification services are described later in this section. The following describes the general steps in the regulatory verification process for early action:

- Step 1: The verification body performs a desk review.
- Step 2: If the verification body concludes with reasonable assurance that they concur with original verifier's assessment of the Early Action Verification Report(s), the verification body must submit an attestation to that affect to ARB. If the verification body agrees the regulatory verification process would be concluded after step 2.

- Step 3: If the verification body cannot conclude with reasonable assurance that a positive verification statement should have been issued for an Offset Project Data Report for which it conducted a desk review ARB may determine that full offset verification services are required for the Offset Project Data Report.

The verification body that conducts the desk review or full offset verification services of Offset Project Data Reports for an early action project must be different than the verification body(ies) that conducted offset verification services for the offset project under the Early Action Offset Program. This regulatory verification requirement is applied at the offset project level, not at the individual Offset Project Data Report level. So any verification bodies and verifiers that were involved in any of the original offset verification services under the Early Action Offset Program are prohibited from performing the desk review or full offset verification services for any of the Offset Project Data Reports for that early action project. This requirement can be found in section 95990(f)(1) of the Regulation.

However, as discussed below, the Regulation allows the desk review and full offset verification services for Offset Project Data Reports related to one offset project to be lumped together into one service. This means that one verification body can conduct a desk review or full offset verification services for up to six years of Offset Project Data Reports. This verification body must still be different from the original verification body(ies) for the early action project under the Early Action Offset Program.

Requirements for Desk Review

A desk review must be conducted for each Offset Project Data Report for which ARB offset credits may be issued (see section 95990(f)(3)). If a desk review is conducted on multiple Offset Project Data Reports for a single project, the party or parties seeking issuance of ARB offset credits may choose to lump the Offset Project Data Reports together into one desk review to cover all the reports. Combining regulatory verification of multiple Offset Project Data Reports is allowed under the Regulation.

To comply with the requirements for the desk review, the verification body must:

- Review the original documentation submitted for the early action offset project. This may include all original documentation although the text only specifically calls out the Early Action Verification Reports and Offset Verification Statements that were submitted to the Early Action Offset Program. The OPO or APD should submit all the documents that were given to the original verifier, including any information related to variances that were issued by the Early Action Offset Program. It is important that the ARB-accredited verifier has all the original documentation to ensure that the original offset verification services were sufficient to render a reasonable assurance to support the issuance of early action offset credits by the Early Action Offset Program. If the ARB-accredited verifier does not have access to all of the original documentation, it may not be able to make a positive determination.

- Review the data checks conducted by the original verification body of the Offset Project Data Report to ensure they were calculated correctly.

The verification body should review the initial data checks to ensure the original calculations of GHG emissions, project emissions, GHG reductions, and GHG removal enhancements were done correctly by the initial verifiers. The verification body should ensure that the calculations conducted by the original verification body were calculated correctly, but it does not need to conduct original data checks for the offset project.

After reviewing the Early Action Verification Report(s) and Offset Verification Statement(s), the verification body must conclude whether or not it agrees with the original verification body that offset credits should have been issued by the Early Action Offset Program based on reasonable assurance. The OPO, APD, and Early Action Offset Program must make the applicable Early Action Verification Reports available to the offset verification team to assist in offset verification services and the desk review.

If the verification body concludes with reasonable assurance that they concur with original verifier's assessment of the Early Action Verification Report(s), the verification body must submit an attestation to that affect to ARB. The attestation required by the verification body states that the verification body has conducted a desk review according to the desk review requirements in the Regulation and that they concur with the issuance of a positive verification statement by the original verification body. This attestation can be found in section 95990(f)(3)(D) of the Regulation. ARB will make the attestation available on its webpage.

What Triggers Full Offset Verification Services for an Offset Project Data Report?

If the verification body cannot conclude with reasonable assurance that a positive verification statement should have been issued for an Offset Project Data Report for which it conducted a desk review, the verification body must prepare a report for ARB that explains the reasons for its conclusions (see section 95990(f)(6)). One reason that an Offset Project Data Report might not pass a desk review is if the verification body is not provided enough relevant information for regulatory verification. If enough information is not made available to the verification body, it cannot make a positive statement with reasonable assurance and indicate this in its report. Ultimately, if while conducting full verification services, a verification body does not have all necessary information, it must provide an adverse statement. ARB will review the report prepared by the verification body and, if necessary, will request additional information from the verification body or the Early Action Offset Program before it makes a determination of whether it agrees with the conclusion made by the verification body.

If ARB finds that the Offset Project Data Report should not have been issued a positive verification statement, the Offset Project Data Report would need to be verified according to the verification provisions in sections 95977.1 through 95977.2 of the Regulation in order for ARB offset credits to be issued under the report. The OPO or APD may decide not to conduct full verification services. If full verification services are not conducted, ARB offset credits may not be issued, and the early action offset credits

will remain in the voluntary market. The verification body that conducted the desk review may conduct full offset verification services, and all Offset Project Data Reports for one offset project that must undergo full offset verification services may be conducted as one offset verification service.

To comply with the requirements for full offset verification services (section 95990(f)(6)), the verification body must:

- Conduct a site visit if the early action offset project is still in operation;
- Conduct a desk review of the original documentation to confirm any previous verification findings if the early action offset project is no longer in operation;
- Ensure that the sampling plan covers all serialized offset credits issued to the early action offset project for all years for which the verification body is conducting full verification services; and
- Review the data checks across all sources identified in the sampling plan.

After offset verification services have been performed, the verification body must submit Offset Verification Statements to ARB covering all the years for which they conducted full offset verification services. A verification body may submit an adverse, positive, or qualified positive offset verification statement for non-sequestration offset projects. For forest projects, the verification body may only submit an adverse or positive offset verification statement. The verification body must specify which vintages received a positive, qualified positive, or adverse offset verification statement so that ARB can determine which offsets may be eligible to be issued ARB offset credits.

Since multiple Offset Project Data Reports can be submitted for one project, the Regulation makes it clear that once ARB offset credits have been issued for a specific Offset Project Data Report, any subsequent verification services related to early action of that project will not trigger a review of previous reports for which ARB offset credits have been issued. Each Offset Project Data Report only needs to undergo regulatory verification once.

How Do the Rotation of Verification Body Requirements Apply to Early Action Projects?

The rules for the rotation of verification bodies apply to early action projects. A single verification body may only verify up to six years of offset data before the OPO or APD must contract for services with another verification body (see section 95977.1(a)). If a single verification body only verifies three years of Offset Project Data Reports under the Early Action Offset Program, and then the project transitions to an ARB Compliance Offset Protocol, the verification body may conduct offset verification services for three more years' worth of offset project data before the OPO or APD must switch to another verification body.

This is also the case for those early action projects for which operators or holders are transitioning early action offset credits into ARB offset credits. The desk review must be

conducted on Offset Project Data Reports by a different verification body, but the original verification body under the Early Action Offset Program may continue to verify Offset Project Data Reports until they meet the six-year limit. The use of a different verification body for converting early action offset credits into ARB offset credits in itself does not trigger the rotation of verification body requirements.

6.14.8. *How Are ARB Offset Credits Issued for Early Action?*

Section 95990(h) of the Regulation describes the requirements that must be met before ARB may issue ARB offset credits for early action, and section 95990(i) describes the process for issuance of ARB offset credits. Early action offset credits may not be used for compliance. Early action offset credits must be converted to ARB offset credits before they are issued in the CITSS and are eligible to be used for compliance with the Cap-and-Trade Regulation. The original early action offset credits must be retired or cancelled by the Early Action Offset Program before ARB will issue ARB offset credits.

Requirements for ARB Offset Credit Issuance for Early Action

ARB will issue ARB offset credits for early action if the requirements in section 95990(h) of the Regulation are met. If an early action offset credit has been retired or canceled—(other than specifically to allow the issuance of ARB offset credits) or used to meet a surrender obligation, a voluntary commitment, or any GHG mitigation requirements in any voluntary or regulatory program—ARB will not issue ARB offset credits for those early action offset credits.

ARB will assess whether the following specific criteria have been met before issuing ARB offset credits for early action offset credits:

- The GHG reductions or removal enhancements occurred no later than December 31, 2014.
- The GHG reductions or removal enhancements meet the requirements for regulatory verification. This means that either a desk review or full offset verification services were conducted, and an ARB-accredited verifier has attested to the validity of the early action offset credits or submitted a positive, or in some cases, qualified positive offset verification statement.
- The early action offset project has been listed or registered with an Early Action Offset Program by January 1, 2014.
- The party or parties seeking issuance of ARB offset credits has submitted the required attestations to ARB. If the OPO or APD listed the early action offset project, they are responsible for submitting the attestations. If the OPO or APD did not list the offset project, and the holders of the early action offset credits are seeking issuance of ARB offset credits, each holder is responsible for submitting the attestations. The attestations can be found in sections 95990(h)(6)(A) through (C) of the Regulation. ARB will also make these attestations available on its website.

Process for Issuance and Registration of ARB Offset Credits for Early Action

If ARB determines that early action offset credits meet the requirements of section 95990(h) of the Regulation, it will issue ARB offset credits that may be used for compliance. Before ARB offset credits are issued, ARB must determine how many should be issued. The number of ARB offset credits to be issued depends on two factors: the early action offset quantification methodology that was used and the contribution to the Forest Buffer Account. The amount of ARB offset credits issued will be discussed later in this section.

Step 1: ARB will notify the Early Action Offset Program within 10 calendar days after making the determination to issue the ARB offset credits. The Early Action Offset Program must remove or cancel the corresponding early action offset credits within 10 calendar days of being notified by ARB. These early action offset credits must no longer be available for transaction on the Early Action Offset Program's system.

Step 2: ARB will issue ARB offset credits by creating a unique ARB serial number for each credit. The OPO, APD, or holder will need to provide information for ARB offset credit issuance.

As part of this required information, the OPO, APD, or holder will specify which accounts the ARB offset credits will be transferred into, and how many will be transferred into each account. If the OPO or APD submitted all the required information to transition the ARB offset credits, all ARB offset credits issued in lieu of early action offset credits for that Offset Project Data Report must be issued into the OPO or APD's Holding Account. Holders should work with the OPO or APD to make sure that they receive their credits from the OPO or APD. This must be done through transfers in the CITSS system. If the holders submitted all the required information to transition the ARB offset credits, ARB will issue the ARB offset credits directly into the holder's Holding Account. (See section 6.14.11 of this guidance document for more information about the limited circumstances in which holders could be directly issued ARB offset credits into their Holding Accounts.)

To assist the OPO, APD, or holder in submitting the required information, ARB will make available a form for requesting issuance of ARB offset credits. This form can be used as a convenient way to submit required information for the issuance of ARB offset credits.

Step 3: ARB will notify the OPO, APD, and the holders of the original early action offset credits that ARB offset credits have been issued.

6.14.9. *How Many ARB Offset Credits Will Be Issued for Non-Sequestration Early Action Offset Projects?*

ARB will issue one ARB offset credit for each early action offset credit that meets the requirements of the Regulation for the following approved quantification methodologies:

- Climate Action Reserve Urban Forest Project Protocol versions 1.0 through 1.1;
- Climate Action Reserve U.S. Ozone Depleting Substances Project Protocol version 1.0; and
- Climate Action Reserve U.S. Livestock Project Protocol versions 1.0 through 3.0.

6.14.10. How Many ARB Offset Credits Will Be Issued for Forest Early Action Offset Projects?

ARB's Compliance Offset Program requires that all forest offset projects contribute to the Forest Buffer Account to ensure permanence of the GHG removal enhancements achieved by forest projects. Early action offset projects developed under Climate Action Reserve Forest Project Protocol version 2.1 and versions 3.0 through 3.2 must also contribute an appropriate amount of issued offsets to the Forest Buffer Account. The contribution amount that is required is based on the project-specific risk rating in the Compliance Offset Protocol U.S. Forest Projects. The OPO or APD should work with the Early Action Offset Program to ensure that the buffer account offsets related to its offset project are transferred to ARB.

ARB will determine how many ARB offset credits will be required to be placed into the Forest Buffer Account and how many will be issued based on the number of qualified early action offset credits that transfer from the Early Action Offset Program's buffer account and the project-specific risk rating in the Compliance Offset Protocol U.S. Forest Projects. The following pages describe how these contributions are determined.

Requirements for Transfer of Early Action Offset Program Buffer Account Contributions

Some early action forest offset projects may have already contributed offset credits to a buffer account maintained by the Early Action Offset Program. If any ARB offset credits are being issued for an early action forest offset project, the Regulation requires the Early Action Offset Program to transfer all early action offset credits that are in its buffer account for that offset project to ARB. This includes all vintages, including those that may have been issued from 2001 through 2004. Once these early action offset credits are transferred to ARB, they must no longer be available on the Early Action Offset Program's system.

Not all early action offset credits that were placed into the Early Action Offset Program's buffer account will be able to count toward ARB's Forest Buffer Account requirements, i.e., vintages 2001 through 2004 will not count because they do not meet the criteria for qualifying early action offset credits. ARB will create a series of unique serial numbers for these vintages, and they can only reside in ARB's Forest Buffer Account. They may not be sold, traded, or retired to meet a compliance obligation. ARB will only retire these vintages in the event of a project termination.

How Will ARB Calculate the Forest Buffer Account Contribution for Early Action Forest Offset Projects?

The Regulation uses formulas to calculate how many ARB offset credits must be contributed to ARB's Forest Buffer Account. ARB will need to determine how many ARB offset credits to issue for each Offset Project Data Report year based on the amount of qualifying early action offset credits. Therefore, the calculations will be applied to the issuance and contribution circumstances for each Offset Project Data Report year. Different calculation methods will be used depending upon whether the OPO or APD registered and listed the early action offset project, or the holders of the early action offset credits registered and listed the offset project.

Forest Buffer Account Contribution for OPOs and APDs – As stated above different calculation methods will be used depending upon whether the OPO or APD registered and listed the early action offset project, or the holders of the early action offset credits registered and listed the offset project. If the OPO or APD register and list the offset project ARB will determine how many ARB offset credits should be issued to an OPO or APD for a specific Offset Project Data Report year, based on the following factors:

- The total number of early action offset credits that meet the requirements of the Regulation and for which the OPO or APD is seeking issuance of ARB offset credits, for a given Offset Project Data Report year ($EAOC_{issue}$);
- The Forest Buffer Account contribution percentage that must be applied to the Offset Project Data Report for the project-specific risk rating in the Compliance Offset Protocol U.S. Forest Projects (RR_{COP}); and
- The total number of early action offset credits in the Early Action Offset Program's buffer account that are being transferred to ARB and meet the requirements of the Regulation ($EAOP_{Buffer}$).

First, ARB will determine if the buffer account contribution transferred by the Early Action Offset Program is sufficient to cover the amount needed to meet the requirements of the Forest Buffer Account contribution in ARB's Compliance Offset Protocol.

One-to-One Issuance: If the following condition holds true, then ARB will issue one ARB offset credit for each early action offset credit to the OPO or APD:

$$EAOP_{Buffer} \geq EAOC_{Issue} \times RR_{COP}$$

Example 6.14.3

In Offset Project Data Report A ($OPDR_A$), 25,000 offset credits were issued. Only 20,000 meet the requirements of the Regulation and qualify as early action offset credits ($EAOC_{Issue}$).

According to the Compliance Offset Protocol U.S. Forest Projects, the risk rating for the offset project is 20 percent (RR_{COP}).

The number of offset credits that were transferred from the Early Action Offset Program's buffer account and meet the requirements of the Regulation to qualify as early action is 5,000 ($EAOP_{Buffer}$).

$$\begin{aligned} EAOP_{Buffer} &\geq EAO C_{Issue} \times RR_{COP} \\ 5000 &\geq 20000 \times 20\% \\ 5000 &\geq 4000 \end{aligned}$$

Since this condition holds true, ARB offset credits will be issued on a one-to-one basis. Therefore, a maximum total of 20,000 ARB offset credits may be issued to the OPO or APD. The number of ARB offset credits that will be issued depends on the number of early action offset credits that the OPO or APD holds and is using to seek issuance of ARB offset credits. In addition, ARB offset credits may also be issued to the OPO or APD on behalf of holders.

In a separate action, ARB will place the 5,000 offset credits from the Early Action Offset Program's buffer account into the Forest Buffer Account.

Less Than One-To-One Issuance: If the number of early action offset credits transferred from the Early Action Offset Program's buffer account is insufficient, and the following condition holds true, then ARB will issue ARB offset credits to the OPO or APD in an amount that compensates for ARB's Forest Buffer Account requirements (ARB_{Issue}):

$$\begin{aligned} \text{If: } EAOP_{Buffer} &< EAO C_{Issue} \times RR_{COP} \\ \text{Then: } ARB_{Issue} &= EAO C_{Issue} - |(EAO C_{Issue} \times RR_{COP}) - EAOP_{Buffer}| \end{aligned}$$

Example 6.14.4

In Offset Project Data Report B (OPDR_B), 25,000 offset credits were issued. Only 20,000 meet the requirements of the Regulation and qualify as early action offset credits ($EAO C_{Issue}$).

According to the Compliance Offset Protocol U.S. Forest Projects, the risk rating for the offset project is 20 percent (RR_{COP}).

The number of offset credits that were transferred from the Early Action Offset Program's buffer account and meet the requirements of the Regulation to qualify as early action is 3,000 ($EAOP_{Buffer}$).

$$\begin{aligned}
 EAOP_{Buffer} &< EAO C_{Issue} \times RR_{COP} \\
 3000 &< 20000 \times 20 \% \\
 3000 &< 4000
 \end{aligned}$$

Since this condition holds true, ARB offset credits will only be issued in the amount needed to make up the difference. The following formula determines the total number of ARB offset credits that will be issued:

$$\begin{aligned}
 ARB_{Issue} &= EAO C_{Issue} - |(EAO C_{Issue} \times RR_{COP}) - EAOP_{Buffer}| \\
 ARB_{Issue} &= 20000 - |(20000 \times 20\%) - 3000| \\
 ARB_{Issue} &= 20000 - |(4000) - 3000| \\
 ARB_{Issue} &= 20000 - |1000| \\
 ARB_{Issue} &= 19000
 \end{aligned}$$

In this case, ARB may only issue at a maximum 19,000 ARB offset credits to the OPO or APD and will place the other 1,000 ARB offset credits into the Forest Buffer Account. The number of ARB offset credits that will be issued depends on the number of early action offset credits that the OPO or APD holds and is using to seek issuance of ARB offset credits. Separately, this equation would be applied to the total number of early action offset credits that each holder holds and is using to seek issuance of ARB offset credits.

In a separate action, ARB will also place the 3,000 offset credits from the Early Action Offset Program's buffer account into the Forest Buffer Account.

Forest Buffer Account Contribution for Holders of Early Action Offset Credits – As stated above different calculation methods will be used depending upon whether the OPO or APD registered and listed the early action offset project, or the holders of the early action offset credits registered and listed the offset project. If the individual holders register and list the offset project ARB will determine how many ARB offset credits should be issued to each holder for a specific Offset Project Data Report year. This determination will be based on the following factors:

- The total number of early action offset credits that meet the requirements of the Regulation and qualify to be issued ARB offset credits, for a given Offset Project Data Report year ($EAO C_{PIssue}$);
- The total number of early action offset credits that meet the requirements of the Regulation for which the holder is seeking issuance of, for a specific Offset Project Data Report year ($EAO C_{HIssue}$);
- The Forest Buffer Account contribution percentage that must be applied to the Offset Project Data Report for the project-specific risk rating in the Compliance Offset Protocol U.S. Forest Projects (RR_{COP});

- The contribution percentage that was calculated and applied to the Offset Project Data Report for the project-specific risk rating in the applicable early action offset protocol (RR_{EAP}); and
- The total number of early action offset credits in the Early Action Offset Program's buffer account that are being transferred to ARB and meet the requirements of the Regulation ($EAOP_{Buffer}$).

First, ARB will determine if the buffer account contribution transferred by the Early Action Offset Program is sufficient to cover the amount needed to meet the requirements for the Forest Buffer Account contribution in ARB's Compliance Offset Protocol.

One-to-One Issuance: If the following condition holds true, then ARB will issue one ARB offset credit for each early action offset credit to the holder:

$$EAOP_{Buffer} \geq EAO_{PIssue} \times RR_{COP}$$

Example 6.14.5

Holder A is seeking issuance of 7,000 ARB offset credits, and they all meet the requirements of the Regulation.

In Offset Project Data Report C ($OPDR_C$), 25,000 offset credits were issued. Only 20,000 meet the requirements of the Regulation and qualify as early action offset credits (EAO_{PIssue}).

According to Compliance Offset Protocol U.S. Forest Projects, the risk rating for the offset project is 20 percent (RR_{COP}).

The number of offset credits that were transferred from the Early Action Offset Program's buffer account and meet the requirements of the Regulation to qualify as early action is 5,000 ($EAOP_{Buffer}$).

$$EAOP_{Buffer} \geq EAO_{PIssue} \times RR_{COP}$$

$$5000 \geq 20000 \times 20\%$$

$$5000 \geq 4000$$

Since this condition holds true, ARB offset credits will be issued on a one-to-one basis. Therefore, 7,000 ARB offset credits will be issued to Holder A. ARB will place the 5,000 offset credits from the Early Action Offset Program's buffer account into the Forest Buffer Account.

Less Than One-To-One Issuance: If the number of early action offset credits transferred from the Early Action Offset Program's buffer account is insufficient, and the following condition holds true, then ARB will issue ARB offset credits to the holder in an amount that compensates for ARB's Forest Buffer Account requirements (ARB_{HIssue}):

$$\text{If: } EAOP_{Buffer} < EAO C_{PIssue} \times RR_{COP}$$

$$\text{Then: } ARB_{HIssue} = EAO C_{HIssue} - |(EAO C_{HIssue} \times RR_{COP}) - (EAO C_{HIssue} \times RR_{EAP})|$$

Example 6.14.6

Holder B is seeking issuance of 7,000 ARB offset credits, and they all meet the requirements of the Regulation ($EAO C_{HIssue}$).

In Offset Project Data Report year 2 ($OPDR_2$), 25,000 offset credits were issued. Only 20,000 meet the requirements of the Regulation and qualify as early action offset credits ($EAO C_{PIssue}$).

According to Compliance Offset Protocol U.S. Forest Projects, the risk rating for the offset project is 20 percent (RR_{COP}).

According to the early action offset protocol, the risk rating applied to the offset project under the Early Action Offset Program was 10 percent (RR_{EAP}).

The number of offset credits that were transferred from the Early Action Offset Program's buffer account and meet the requirements of the Regulation to qualify as early action is 3,000 ($EAOP_{Buffer}$).

$$EAOP_{Buffer} < EAO C_{PIssue} \times RR_{COP}$$

$$3000 < 20000 \times 20 \%$$

$$3000 < 4000$$

Since this condition holds true, ARB offset credits will only be issued in the amount needed to make up the difference. The following formula determines the total number of ARB offset credits that will be issued:

$$ARB_{HIssue} = EAO C_{HIssue} - |(EAO C_{HIssue} \times RR_{COP}) - (EAO C_{HIssue} \times RR_{EAP})|$$

$$ARB_{HIssue} = 7000 - |(7000 \times 20\%) - (7000 \times 10\%)|$$

$$ARB_{HIssue} = 7000 - |(1400) - (700)|$$

$$ARB_{HIssue} = 7000 - |700|$$

$$ARB_{HIssue} = 6300$$

In this case, ARB will only issue 6,300 ARB offset credits to Holder B and will place the other 700 ARB offset credits into the Forest Buffer Account. ARB will also place the 3,000 offset credits from the Early Action Offset Program's buffer account into the Forest Buffer Account.

How Will ARB Ensure Permanence for Early Action Forest Offset Credits?

Once ARB offset credits are issued for Early Action Forest Offset Credits, the OPO or APD must monitor and verify the credited carbon stocks for 100 years from the date of ARB offset credit issuance. The next paragraph describes what must occur in order to ensure permanence in the event of a reversal.

Reversals for Early Action Forest Offset Projects

Since early action offset projects contribute to the Forest Buffer Account in the same way that compliance offset projects do, the rules for reversals are the same. The Regulation includes provisions for reversals in section 95983. These provisions are also discussed in Section 6.11 of this document. Specifically, sections 95983(b) and (d) apply in the event of an unintentional reversal, and sections 95983(c) and (d) apply in the event of an intentional reversal.

Optional Provisions for Version 2.1 Early Action Forest Offset Projects

The Regulation includes provisions to allow early action forest offset projects developed under Climate Action Reserve (CAR)'s Forest Protocol version 2.1 to apply for additional ARB offset credits if they qualify (see section 95990(i)(1)(E)). The Regulation describes how to determine whether or not additional ARB offset credits may be issued to the OPO or APD. In essence, the OPO or APD must perform a calculation to determine if the offset project would have been issued more offset credits were it developed under ARB's Compliance Offset Protocol versus CAR's version 2.1 protocol. If the amount of ARB offset credits it would have been issued under ARB's Compliance Offset Protocol is greater than the actual amount of offset credits it was issued under the Early Action Offset Program, it can be issued offset credits in that incremental amount. The following section discusses how to determine eligibility and which steps eligible projects may take to be issued additional ARB offset credits.

To be eligible, the early action forest offset project must transition to ARB's Compliance Offset Protocol U.S. Forest Projects and must have been issued ARB offset credits for any Offset Project Data Report year. If an offset project is eligible, it must take the following steps to determine if it may be issued additional ARB offset credits:

Step 1: The OPO or APD must first calculate its project baseline under ARB's Compliance Offset Protocol. Section 95990(k)(1)(D) of the Regulation describes

how to determine the project baseline under ARB's Compliance Offset Protocol. This is also discussed in more detail later in this section.

Step 2: Once the OPO or APD has calculated its project baseline under ARB's Compliance Offset Protocol, it must determine how many GHG reductions or removal enhancements would have been achieved from its Offset Project Commencement date through the date that it transitioned to ARB's Compliance Offset Protocol using the calculated project baseline.

Step 3: The OPO or APD must calculate how many offset credits were issued to the offset project by the Early Action Offset Program under CAR's version 2.1 protocol from its Offset Project Commencement date through the date that it transitioned to ARB's Compliance Offset Protocol.

Step 4: The OPO or APD must then subtract the number of GHG reductions or removal enhancements it calculated under Step 3 above from the number of GHG reductions or removal enhancements it calculated in Step 2 above.

If after completing the calculation in Step 4, the difference is positive, this means that more ARB offset credits would have been issued for the same time frame than were issued by the Early Action Offset Program. In this case, the OPO or APD may be issued additional ARB offset credits equivalent to the positive incremental difference calculated in Step 4.

If after completing the calculation in Step 4, the difference is negative, this means that more offset credits were issued under the Early Action Offset Program than would have been issued by ARB for the same time frame. In this case, the OPO or APD are not eligible to be issued any additional ARB offset credits. They will only be issued ARB offset credits on a one-to-one basis, as described earlier in this section.

6.14.11. How Are ARB Offset Credits Transferred to the Owners?

Pursuant to section 95990(j), ARB will transfer ARB offset credits to the appropriate party or parties within 15 working days of notifying the OPO, APD, and the holders of ARB offset credit issuance.

If the OPO or APD is the party that registered and listed the early action offset project, ARB will transfer the ARB offset credits into the Holding Account of the OPO or APD. The OPO or APD must specify to ARB how many ARB offset credits they are seeking to be issued. They may be seeking issuance of credits that they still own or credits for specific holders. If they are seeking issuance on a holder's behalf, the OPO or APD will need to inform ARB for which holders they are seeking issuance of ARB offset credits. ARB will need to confirm with the Early Action Offset Program that the number of credits being requested is available for retirement in each applicable account at the Early Action Offset Program before issuing them in CITSS.

ARB realizes that not all of the early action offset credits from a given Offset Project Data Report may transition, and that they may not transition all at the same time. The OPO or APD may work with holders at the time they are issued ARB offset credits

initially, or they may work with them individually at a later date to help facilitate the transfer of ARB offset credits to the correct holders of the original early action offset credits. This may happen over time as holders are prepared to work with OPOs and APDs. If a holder does not work with the OPO or APD at the time of initial issuance of ARB offset credits, and is seeking issuance at a later point in time, the holder will need to contact ARB to let ARB know that they are intending to transition early action offset credits from that verification report. ARB will check with the Early Action Offset Program to ensure that the number of credits they are requesting are available for retirement. Holders will also need to work with the OPO or APD in this scenario, as the ARB offset credits will then have to transfer the ARB offset credits into the Holding Account of the appropriate original holder in CITSS. ARB recommends that OPOs, APDs, and holders develop contracts among themselves to determine liability issues and ensure that the appropriate transfers of ARB offset credits between accounts are made.

If a holder registered and listed the early action offset project, ARB will transfer the ARB offset credits into the Holding Account of the holder. There may be multiple holders of the original early action offset credits. Each holder must prove ownership of the original early action offset credits, including the original serial numbers that were issued by the Early Action Offset Program, before ARB will transfer the ARB offset credits.

6.14.12. How Do Early Action Offset Projects Transition to Compliance Offset Protocols?

This section describes how early action offset projects may transition to ARB's Compliance Offset Protocols in order to begin or continue generating ARB offset credits. These requirements may also be found in section 95990(k) of the Regulation. Specifically, this section describes the timing requirements for transitioning into the compliance offset program, which Compliance Offset Protocol must be used, how to determine crediting periods after transition, the requirements for listing under a Compliance Offset Protocol, and what steps need to be taken once an early action offset project transitions to a Compliance Offset Protocol.

Timing Requirements for Transitioning Early Action Offset Projects

In order to generate ARB offset credits early action offset projects must transition to Compliance Offset Protocols by February 28, 2015. To transition, the offset project must list with an Offset Project Registry under a Compliance Offset Protocol and begin complying with the monitoring and reporting requirements in the Compliance Offset Protocol and the Regulation.

NOTE: As discussed earlier in this guidance document, ARB will only issue ARB offset credits for GHG reductions or removal enhancements achieved from 2005 to 2014. This means that GHG reductions or removal enhancements achieved under an early action protocol in 2015 will not be eligible to be issued ARB offset credits. If an offset project that entered the Cap-and-Trade Program under an early action protocol wants to be issued ARB offset credits for GHG reductions or removal enhancements achieved in 2015, it must operate under a Compliance Offset Protocol in that year.

Determining Which Compliance Offset Protocol to Use

For transitioning, the appropriate Compliance Offset Protocol will be determined based on project type, as follows:

Livestock Projects – If an early action offset project was developed under Climate Action Reserve U.S. Livestock Project Protocol versions 1.0 through 3.0, it must use and meet all the requirements in the Compliance Offset Protocol Livestock Projects, October 20, 2011.

Ozone Depleting Substances Projects – If an early action offset project was developed under Climate Action Reserve U.S. Ozone Depleting Substances Project Protocol version 1.0, it must use and meet all the requirements in the Compliance Offset Protocol Ozone Depleting Substances, October 20, 2011.

Urban Forest Offset Projects – If an early action offset project was developed under Climate Action Reserve Urban Forest Project Protocol versions 1.0 through 1.1, it must use and meet all the requirements in Compliance Offset Protocol Urban Forest Projects, October 20, 2011.

U.S. Forest Projects – If an early action offset project was developed under Climate Action Reserve Forest Project Protocol versions 3.0 through 3.2, it must use the Compliance Offset Protocol U.S. Forest Projects, October 20, 2011. Upon transitioning, the OPO or APD must subtract any carbon stocks from any optional pools that are excluded in the Compliance Offset Protocol from the project baseline, beginning with the last Reporting Period under the Early Action Offset Program. If there are decreases in carbon stocks as a result, these will not constitute a reversal.

If an early action offset project was developed under Climate Action Reserve Forest Project Protocol version 2.1, it must use and meet all the requirements in the Compliance Offset Protocol U.S. Forest Projects, October 20, 2011. When a project transitions from version 2.1, the OPO or APD must calculate its project baseline according to the Compliance Offset Protocol U.S. Forest Projects, October 20, 2011, and all applicable requirements in the Regulation. The project baseline must be calculated from the date of offset project commencement under the Early Action Offset Program to the date that the early action offset project transitions the offset project to a Compliance Offset Protocol. This project baseline will remain valid for the duration of the offset project life. In the first Reporting Period after transitioning to a Compliance Offset Protocol, an offset project may only be issued registry offset credits and ARB offset credits for the increased carbon stocks beyond what was already issued early action offset credits in the last year under the Early Action Offset Program.

Determining Crediting Periods for Transitioning Offset Projects

Once an early action project transitions to a Compliance Offset Protocol, it will begin an initial crediting period. The initial crediting period will begin with the date that the first verified GHG reductions or GHG removal enhancements occurred using a Compliance

Offset Protocol. The length of the crediting period is established in each Compliance Offset Protocol. The crediting period that was established under the Early Action Offset Program will no longer be valid.

Listing Requirements for Transitioning Offset Projects

To list an early action project under a Compliance Offset Protocol, the early action project must meet the requirements in section 95973 of the Regulation. The OPO or APD must list the offset project according to the requirements in section 95975 of the Regulation. These requirements are described in detail in Section 6.7 of this document.

Although an offset project must be listed under a Compliance Offset Protocol by February 28, 2015, the regulatory verification for GHG reductions and removal enhancements achieved in 2014 must be completed by September 30, 2015. This timing provision applies to both projects that are transitioning to a Compliance Offset Protocol, and those that choose to continue operating under a voluntary protocol. As long as the verification is performed by this date, the GHG reductions and removal enhancements achieved in 2014 are eligible to be issued ARB offset credits, assuming they meet all the regulatory and COP requirements.

Offset Project Requirements After Transition to a Compliance Offset Protocol

After an early action offset project transitions to a Compliance Offset Protocol and lists with an Offset Project Registry, it must complete the steps in the offset process to be issued ARB offset credits for GHG reductions or removal enhancements achieved by the offset project. This includes meeting the requirements for monitoring, reporting, and record retention, which are described in detail in Section 6.8 of this document. This also includes meeting the verification requirements, which are described in more detail in a separate guidance document on general offset verification. In addition, the requirements for issuance of registry offset credits and ARB offset credits must be met. These requirements are described in detail in Section 6.10 of this document.

6.14.13. How Do the Invalidation Rules Apply to ARB Offset Credits That Were Issued for Early Action?

Per section 95990(l), ARB offset credits issued for early action are also subject to the similar invalidation rules as ARB offset credits issued to offset projects developed under Compliance Offset Protocols. There are slight differences in how the invalidation rules in section 95985 apply to ARB offset credits issued for early action. Like the invalidation provisions in section 95985, the rules for early action are divided into two categories: non-sequestration offset projects and forest offset projects.

Application of Invalidation Rules for Non-Sequestration Offset Projects

Similar rules apply to non-sequestration offset projects that entered the Cap-and-Trade Program under early action protocols as apply to non-sequestration offset projects that came in under Compliance Offset Protocols. These requirements can be found in sections 95985(a) through (h) and section 95985(j) of the Regulation. These requirements are also discussed in detail in Section 6.11 of this document.

The Regulation emphasizes in section 95990(l)(1)(A) that if an OPO or APD lists or registers the early action offset project with an Early Action Offset Program, and the replacement party identified in section 95985(e)(2) of the Regulation is no longer in business, the OPO is still responsible to replace invalidated ARB offset credits. There is no change to the invalidation rules if the OPO or APD lists or registers the early action offset project.

However, if the holders list or register the early action offset project with an Early Action Offset Program, and the replacement party identified in section 95985(e)(2) of the Regulation is no longer in business, the holders that transitioned the early action offset credits to ARB offset credits are responsible to replace invalidated ARB offset credits. In this case, the OPO is no longer required to replace the invalidated ARB offset credits, and this is different from the replacement liability as described in section 95985 of the Regulation.

Application of Invalidation Rules for Forest Offset Projects

The same rules apply to forest offset projects that came in under early action and forest offset projects that came in under a Compliance Offset Protocol. These requirements can be found in sections 95985(a) through (g) and sections 95985(i) and (j) of the Regulation. These requirements are also discussed in detail in Section 6.12 of this document. As with ARB offset credits issued to forest offset projects in section 95985, the forest owner is responsible for replacing any invalidated ARB offset credits.

Reducing the Statute of Limitations for ARB Offset Credits that Originated as Early Action Offset Credits

If an OPO or APD does not have a second verifier conduct regulatory verification for any given data report year, then the statute of limitations will remain at eight years. If an early action offset project does not transition to a Compliance Offset Protocol, and does not have a second verifier conduct regulatory verification, the statute of limitations will be eight years. Exceptions to the statute of limitation rules will not be made for early action offset projects.

In all cases, the time frame for invalidation, whether three years or eight years, begins when the ARB offset credit is issued. This applies to all ARB offset credits whether they are issued to an offset project that originally came in under early action, or an offset project developed directly under a Compliance Offset Protocol.

How do the statute of limitation rules apply to the first full verification following the transition of early action offset credits to ARB offset credits?

ODS Projects: To reduce the statute of limitations from eight years to three years for an ODS project, an ARB-accredited verifier must conduct a second verification of the Offset Project Data Report in addition to the desk review or regulatory verification performed in section 95990(f) of the Regulation. This second verification must be performed within three years of the desk review and must contain a site visit. The site visit must only be performed once for all qualifying Offset Project Data Reports.

Livestock, Forest, and Urban Forest Projects that Transition to Compliance Offset Protocols: To reduce the statute of limitations from eight years to three years for livestock, forest, and urban forest projects, an ARB-accredited verifier must verify a subsequent Offset Project Data Report generated following a Compliance Offset Protocol. The verifier must be a different ARB-accredited verifier than the one that conducted the desk review or regulatory verification performed in section 95990(f). The new ARB-accredited verifier must verify this subsequent Offset Project Data Report within three years of issuance of the ARB offset credits.

Livestock, Forest, and Urban Forest Projects that DO NOT Transition to Compliance Offset Protocols or Choose to Reduce the Statute of Limitations Early: To reduce the statute of limitations from eight years to three years for livestock, forest, and urban forest projects that do not transition to a Compliance Offset Protocol or choose to reduce the statute of limitations early, the original Offset Project Data Reports must be re-verified by a different verification body than the one that performed the desk review or full offset verification. The re-verification would have to be performed within three years of the ARB offset credit issuance following the initial early action desk review.

NOTE: This also applies to the Offset Project Data Report submitted for the last year of the early action offset project's crediting period under the Early Action Offset Project.